Class E340
Book M47
Copyright No.

COPYRIGHT DEPOSIT.

RICHARD HICKMAN MENEFEE

Richd. H. Menifee

Richard Hickman Menefee

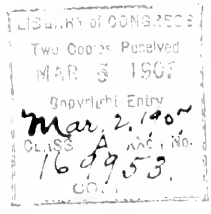
BY

JOHN WILSON TOWNSEND

Member of The Filson Club and of The Kentucky Historical Society

"Ambition, thy name is man"

New York and Washington
THE NEALE PUBLISHING COMPANY
1907


LIBRARY of CONGRESS
Two Copies Received
MAR 5 1907
Copyright Entry
Mar. 2. 1907
CLASS A XXc. No.
16953.
CO.

Copyright, 1907, by
THE NEALE PUBLISHING COMPANY

To the memory of a lawyer-journalist—
My Father

CONTENTS.

		Page.
I.	First Years,	11
II.	Education,	23
III.	The Young Lawyer-Politician,	39
IV.	In the Kentucky Legislature,	60
V.	In Congress,	81
VI.	Webster and Menefee,	196
VII.	In Congress (Concluded),	204
VIII.	Return to Kentucky,	232
IX.	Sundown,	255
X.	Memorials,	271
XI.	Menefee, The Man,	316
	Index,	321

PREFACE.

Some seven years ago at a little Kentucky country school, a youth read for the first time about Richard Hickman Menefee. The school history of Kentucky that the youth was reading called Menefee "the young Patrick Henry of the West," and this title, with the face of Menefee, the youth carried in his memory, dreaming that he might some day write the biography of the hero of Kentucky history. In the fall of 1904, the youth, now a student at the institution that succeeded Menefee's university, wrote for the college magazine a short sketch of his hero. Since then he has been collecting the materials for a complete biography of Menefee, which is now incorporated into book form.

This book has been written for two reasons: first, the admiration that the author has for the man; second, the great need of such a book. Menefee alone, of the three great Kentucky orators, has found no adequate biographer. With the exception of Marshall's eulogy, and many sketches, full and just recognition in the form of a complete "life," with a collection of his speeches, has been denied him. If this book succeeds in making vivid and definite what has been merely tradition, I shall not consider my work done in vain.

My thanks are due to so many persons for assistance in the preparation of this biography that it would be impossible to recount all of them here. Some, however, have assisted me so materially that they deserve to be mentioned at this time. First, to Mr. Richard H. Menefee, of Louisville, the namesake and grandson of Menefee, my sincerest thanks are due. Without his assistance no true estimate of Menefee could have been formed. To Col. Reuben T. Durrett, founder and president of the Filson Club, for permission to work at will in the largest private library in Kentucky, I am very grateful.

The following persons have also assisted me greatly:

Dr. R. G. Thwaites, of Madison, Wisconsin; Senator Jos. C. S. Blackburn, of Washington; Judge Edward Mayes, of Jackson, Mississippi; Professor Thomas S. Noble, of Cincinnati, Ohio; Mr. Clarke Tandy, of Oxford England, and Miss Mary Louise Dalton, St. Louis, Missouri. The following Kentuckians have aided me in various ways: Governor J. C. W. Beckham and Assistant State Librarian Frank K. Kavanaugh, of Frankfort; Mr. LaVega Clements, of Owensboro; Captain John A. Steele, of Midway; Miss Johanna Peter, of Fayette County; Mr. Lucien Beckner and Mr. James French, of Winchester; Judge John A. Ramsey and Mr. William H. Daugherty, of Owingsville; Mrs. Albert Hoffman and Mr. Davis Reid, of Mt. Sterling; Mrs. Robert Harding, of Danville; Dr. Edward O. Guerrant, of Wilmore, and the Misses Kinkead, of Lexington, one of whom is the only woman historian that Kentucky has produced, have given me the kindest encouragement that it was my fortune to receive from any source while this work was in preparation. Also to the librarians of the Lexington Public Library, I am very grateful for the courtesies that they have seen fit to show me. Two Yale men, both Kentuckians, the readers of this book may, with me, thank. One, Dr. Hubert G. Shearin, Ph. D., of Kentucky University, for many valuable suggestions; the other, Mr. Charles Fennell, of Cynthiana, Kentucky, for assistance in obtaining several of Menefee's speeches.

Direct bibliographical reference to the authorities consulted, except to such general works as Collins' History of Kentucky and biographical encyclopedias, will be found at the bottom of the pages.

JOHN WILSON TOWNSEND,
Lexington, Kentucky.

November 8, 1906.

RICHARD HICKMAN MENEFEE

CHAPTER I

FIRST YEARS

Richard Hickman Menefee was born in Owingsville, Kentucky, December 4, 1809, and died in Lexington, Kentucky, February 20, 1841.

The name of Menefee is of Irish derivation, and the American founder of the family was George Menifie,[1] who, in 1629, was one of the Burgesses that represented James City, in the Virginia House of Burgesses. Later in life he became a prosperous merchant. That George Menifie was an ancestor of Richard H. Menefee, there is very little doubt. At any rate, the Menefees were Virginians, and came to Kentucky in the latter half of the eighteenth century.

The first Kentucky Menefees that did enough in the world to have their deeds recorded, were four private soldiers. In the pioneer companies that were organized in Kentucky in 1778 on up into the nineteenth century, in the company of Capt. Benjamin Logan, who had charge of a Lincoln County company, the names of James, Jarrett, and Joseph Menifee are found. In Capt. John Boyle's company, which was scattered over that part of Kentucky that is now included in the counties of Garrard, Lincoln, and Boyle, the name of Wil-

[1] Hening's Statutes at Large, Vol. 1, pp. 282, 297.

liam Menifee is found. And, although the illiterate roll-keeper spelled the name with an "i," instead of an "e," as many cultured Kentuckians have since done, it is almost certain that these four soldiers were kinsmen of Richard H. Menefee, and the founders of the Menefee family living in Lincoln County to-day.

Richard Menefee, the father of the subject of this biography, was a Virginian by birth and removed to Kentucky in the last decade of the eighteenth century. He was by trade a potter and worked for many years at the old Bourbon furnace. Richard Menefee finally entered politics, and in 1801-1802 was elected as the representative from Montgomery County in the Kentucky House of Representatives. In 1806 he was returned to the House, and two years later was State Senator from Montgomery in the Kentucky Senate. This office, which Menefee held for the next four years, is memorable as being the time in which his great son was born.

As has been stated, it was on the 4th of December, 1809, that Richard H. Menefee was born, in a log-house situated near a spring. One or two years after his birth his father tore down the log-house and built a brick one directly over the spring. Owingsville tradition says that Col. Thomas Dye Owings and Richard Menefee agreed that the future town should be named for the one who built the finest house on the clearing they had made Owings built a finer house than did Menefee and we consequently have "Owingsville" instead of "Menefeesville," as it might have been. Besides being the birth place of Richard H.

Menefee, Owingsville was also the birth place of John Bell Hood (1831-1879), commander of the Army of the Tennessee, and author of "Advance and Retreat," and William Lightfoot Visscher, the Kentucky poet, who was born the year after Menefee's death.

In this competitive brick house Richard H. Menefee passed his first years. This house, which was torn down shortly after the civil war, was situated in the western part of Owingsville, fronting on Main street. Today not a single brick remains to tell the historically inclined Kentuckian that here, nearly a century ago, the youngest of the three great Kentucky orators passed his first years. The spring from which Menefee drank for the first twelve years of his life is still flowing, and supplies a fish pond covering about one-eighth of an acre. Across the State another young Kentuckian, some months older than Menefee, was drinking water from a spring not as large as the Menefee spring, but the spring from which Abraham Lincoln drank has become associated with his name, while the spring from which Richard H. Menefee drank is seldom mentioned in connection with his name.

Menefee's mother's maiden name was Mary Lonsdale. She was born in Harford County, Maryland,[1] in 1788, and came to Kentucky when a young woman. She met Richard Menefee, who had just returned from the Kentucky House of Representatives, and, about 1806, in her eighteenth year, she married him. Their first-born children were twins, and were named Alfred and Alvin Menefee.

[1] Mrs. Dr. Robert Peter is my authority for this statement.

They were born on September 29, 1807. They emigrated to Missouri in the early thirties and became farmers. Alfred Menefee married there and thirteen children were born to him. He was a consistent member of the Church of the Disciples for forty years. One of Menefee's letters to him is given in this book. He died in Perry, Ralls County, Missouri, April 26, 1895. Alvin Menefee died shortly after the civil war.

The old Menefee family Bible, which contained the register of the births of the five sons, has been lost. But Richard H. Menefee was undoubtedly the third son, and he left the record of his own birthday. The opening sentence of his Diary, which is dated December 4, 1840, reads as follows: "My birthday 31 years old." This statement settles all controversy in regard to the day of his birth.

Another of his brothers, and probably the fourth-born son, was John Menefee, who was shot in a duel with Alexander McClung at Vicksburg, Mississippi, on December 29, 1838. The duel was fought with rifles at a distance of thirty paces, and Menefee was shot in the head at the second fire. He died a few days later. McClung was the challenger.

The youngest son was Allen Menefee, who came into the world afflicted with infant paralysis. Dr. Edward O. Guerrant, D. D., of Wilmore, Kentucky, remembers Allen Menefee as a small man, with blue eyes, sandy hair, and fair complexion—almost a double of Richard H. Menefee. Before going to Missouri with his brothers, Alfred and Alvin Menefee, he was a frequent visitor at the home of Dr.

Guerrant's father, Dr. H. S. Guerrant, in Sharpsburg, Kentucky. A letter that Menefee wrote when he was a member of Congress, to Dr. H. S. Guerrant, is preserved in this book.

Thomas F. Marshall, in his eulogy on Menefee, said that Menefee supported an orphan sister, but his father's will mentioned only Menefee and his four brothers. At this point in the eulogy Marshall begins to be historically faulty and continues to be so, with a few exceptions, to the end of his panegyric.

1809, the year in which Menefee was born, is the *annus mirabilis* of the nineteenth century. In this "wonderful year" there was born the greatest group of men that appeared during the century. Tennyson, Poe, Holmes, Fitzgerald, Lord Houghton, Gladstone, Darwin, Chopin, Mendelssohn, Blackie, Hunter, and many other distinguished men were born on both sides of the Atlantic. In Kentucky, Lincoln, Edwards, Bledsoe, Mitchel, Steele, Kinkead, and Carson, were all born during this year.

The year is also famous for other things than the birth of great men. Mammoth Cave was discovered by the hunter Hutchins, and in Danville, Kentucky, Dr. Ephraim McDowell extirpated the ovary, which was the first operation of this kind that had ever been performed in the world. Washington Irving published the "Knickerbocker's History of New York" during this year, which marked the beginning of a national literature in America. James Madison began his first term as the fourth President of the United States in March of this truly wonderful year. So it may be

easily seen that Menefee was born at a time when the men of the world were doing great things. Of all the years of the past century in which a man of ambition could wish to be born, it seems to me that 1809 was the year.

On the day that Menefee was born the Kentucky legislature, for that year, assembled at Frankfort. His father, Richard Menefee, as a Senator from Montgomery and Floyd Counties, was, of course, at the seat of government, and was away from home at the time young Menefee came into the world.

A young Virginian, Henry Clay, had come to Kentucky about a decade before the birth of Menefee and had been sent to the legislature in 1803-1804, and then to the United States Senate in 1806 to serve out the unexpired term of Gen. John Adair. In the winter of 1807 Clay was the Speaker of the Kentucky House of Representatives, and in 1809 had been returned to the Senate to fill out the Hon. John Buckner Thurston's term, who had resigned.

Menefee's mother, who has been described by the historian of Montgomery County[1] as being a very beautiful and attractive woman, educated far in advance of the Kentucky women of her time, had no doubt heard of the young Virginian who was just at the beginning of a career that is unparalleled in American history. Mrs. Menefee was a devout Presbyterian, and a member of the Rev. Joseph P. Howe's church. When Richard was quite young she had Howe baptize him, and when the good man asked the mother to "Name this

[1] Historical Sketches of Montgomery County, prepared by Richard Reid. 1882.

child," she replied, "Henry Clay Menefee." This name young Menefee wore until the return of his father from the Kentucky legislature, in February, 1810.

During the winter of 1809-1810, Richard Menefee served on the Committee of Propositions and Grievances with Richard Hickman, who was the Senator from Clark and Estill Counties. He became very much attached to Hickman and roomed with him during the legislative session. The legislature adjourned on January 31, 1810, and on his return home Richard Menefee changed the name of the son, who up to that time he had never seen, from Henry Clay to Richard Hickman Menefee. American history, so far as I have been able to ascertain, does not afford a parallel case to this incident in Menefee's early life. Gen. U. S. Grant and John Fiske had their Christian names juggled with, but not in the same manner in which Menefee had his changed.

The man for whom he was finally named, Gen. Richard Hickman, was born in Culpeper County, Virginia, on November 5, 1757, and died at his country home, "Cave Land," in Clark County, Kentucky, on July 3, 1832.[1] His education was meager, and on his arrival in Kentucky he became a farmer, and a few years later married Lydia Calloway (Irvine). She was a sister of the two Calloway girls who, with Jamina Boone, were captured by the Indians while boating on the Kentucky River.

Hickman was Clark County's first representative in the Kentucky House of Repre-

[1] Lewis Family in America.

sentatives, serving from 1793 to 1798. He was one of the Clark County members to the Second Constitutional Convention which met at Frankfort in August, 1799, and which was presided over by Alexander S. Bullitt, member from Jefferson County. Many distinguished men of early Kentucky history were members of this convention. The main objection to the first Kentucky Constitution of 1792 was the mode of choosing United States Senators and Governors. The second Constitution gave the election of United States Senators and Governors to the direct vote of the people, and changed the time of holding elections from May to August. The office of Lieutenant-Governor was created and President Bullitt was the first to fill it. The manner of voting was changed to a *viva voce,* which was continued for the next ninety years and was only changed by the fourth and present Constitution in 1891. This information in regard to the second Constitution is given here because it was the Constitution under which Menefee's life work was done, and because the knowledge of it will throw a flood of light on conditions as they existed in Kentucky during that period of our history.

In 1812 Hickman was elected Lieutenant-Governor with Isaac Shelby, when the first Kentucky Governor was elected as the sixth Governor. During the year 1813 Shelby was compelled to take up his sword and go on the field of battle. During his absence Hickman acted as Governor of the Commonwealth. In 1819 he was returned as a Senator from Clark, and served for the next four years. The last

years of his life were spent on his beautiful "Cave Land," near Winchester, Kentucky. Hickman was an old gentleman of the black stock, and a man whose name Menefee, no doubt, was proud to wear.

When Richard H. Menefee[1] was about thirteen months of age, or on January 15, 1811, the northeastern part of Montgomery was formed into Bath County—so named because of its medicinal springs. In October of the same year the town of Owingsville, situated on a high tableland, and commanding a splendid view of the surrounding country, was chosen as the county-seat of this new county of Bath. The first circuit court was held at the home of Capt. James Young in May, 1811, and three sessions of the court were held at his house. On the seventh of November, 1811, it was ordered that the next session of the court should be held at the brick residence of Richard Menefee. Accordingly, on May 4, 1812, the court convened in Menefee's house, situated over the spring. This court continued to meet at the Menefee home for the next four years, and was also held there three times after Richard Menefee's death. From the Menefee house it convened in the new Bath County court-house, which had been erected.

Thomas Marshall thought that Menefee became a lawyer because he was inspired by the fact that he had at one time borne the name of Henry Clay. It is my opinion, however, that Menefee got his first law lessons from these crude courts which were held in his father's house, and that he liked the law and coolly and

[1] Young's History of Bath County.

calmly, with his boyish logic, decided to become a barrister. Another influence that was probably brought to bear on young Menefee's decision to become a lawyer was exercised by Samuel T. Davenport, who was one of the first lawyers to hang out his shingle in Owingsville. Davenport was an educated lawyer for his day and generation and he settled in Owingsville some time in 1811. He boarded with Richard Menefee, and at the building of the Menefee brick house, which was very pretentious for those days, Davenport wrote a poem on it. He was finally captured by the Indians and married a squaw by whom he had several children. That Davenport encouraged young Menefee to study law is almost certain. At any rate, I believe that Davenport and the backwoods court that was held in his father's house had more to do with making Richard H. Menefee decide to become a lawyer, than did the fact that he had, for several weeks, borne the name of Henry Clay. This fact did, no doubt, have some influence with his decision.

In 1812 Richard Menefee's term as Senator from Montgomery and Floyd Counties was over, and he returned to his family. He was a man of action as well as a man of mind, and, after spending some months with his family, he was enlisted in Owingsville, on August 26, 1813, as a soldier in the war of 1812, and rendezvoused at Newport, Kentucky, five days later. He was immediately elected captain of Company A in the regiment known as Col. John Donaldson's Kentucky Mounted Volunteer Militia. Richard Menefee gallantly led his company at the battle of the Thames, which

was fought on October 5, 1813. After the battle Donaldson's regiment was ordered to return to Kentucky, and Menefee was mustered out at Newport, Kentucky, on November 4, 1813. He returned to his home in Owingsville, and in the following year was elected as Bath County's representative in the Kentucky House of Representatives.

During the year 1814, Louis Philippe, King of France, visited Bath County. He was the guest of Col. Thomas Dye Owings, and spent his time in hunting and fishing. The citizens of Bath called him "King Philip," and during the eighteen months which he spent in Bath, they became very much attached to him. The attachment was mutual as the French Government sent twice for him to return before he did so. He tried to persuade Colonel Owings to return to France with him, but Owings declined to do so. One can easily imagine the "Citizen King" patting young Menefee on the head and bestowing upon him the proverbial, "God bless you, my son."

Richard Menefee died at his home in Owingsville, Kentucky, in August, 1815,[1] when his son was nearly six, and not "about four years of age," as Marshall said. In his will, which was written on August 18, and recorded in September, 1815, Richard Menefee appointed his wife, with the assistance of two of his friends, Edward and Robert Stockton, as his executors. He requested that his farm and tavern should be rented, but that the brick house over the spring should be kept as the family home. He gave to his wife one-third of his real estate

[1] Will Book A, in Bath County Clerk's Office.

and to his cripple son Allen he gave a double portion of his estate. He left to his sister-in-law, Patsy Lonsdale, who was an unmarried woman, an old negro servant named Caroline. By this gift Richard Menefee saved his wife's maiden name to Kentucky history, as he simply called her, in his will, "Mary." The slaves he left to his five sons, but they were not divided and sold until 1829. Richard Menefee, one of the founders of Owingsville, one of the wisest law makers of Kentucky's earlier years, and the father of one of the three great orators of Kentucky, sleeps to-day in an unknown grave.

On October 24, 1819, when Menefee was nearly ten years of age, his mother married Col. George Lansdowne,[1] who was for many years proprietor of the Olympian Springs, in Bath County, Kentucky.

[1] Marriage Record Book 1, Bath County Clerk's Office.

CHAPTER II

EDUCATION

The first twelve years of Richard H. Menefee's life were spent under his mother's watchful eye, and it is certain that she took the advice of the wisest man of antiquity, and brought up her child in the way he should go. She also lived to see that he did not depart from it. His elementary education was received at her hands and, in the fall of 1821, in his twelfth year, he was sent to the preparatory school of Walker Bourne, and not to "a gentleman whose name was Tompkins." Marshall described the characteristics of Menefee's teacher, but in some way got his name incorrect. Perhaps the famous Kentucky orator and wit would ask, Juliet-like, "what's in a name?" In love a name is perhaps nil, but in history a name amounts to a great deal. Eloquence and accuracy do not always go hand in hand.

The first school in Montgomery County was opened in 1794, and taught by Robert Trimble,[1] who afterward became associate justice of the United States Supreme Court. He taught school the entire year, five days in the week. Trimble's school was located near the Springfield church, which had been opened the same year that the school was founded, by Rev. Joseph P. Howe. A few years after Trimble

[1] Historical Sketches of Montgomery County, prepared by Richard Ried. 1882.

began to teach, Bourne opened his school in the same neighborhood.

Walker Bourne was born on the banks of the Rapidan River, in Virginia, on May 5, 1790. He was brought to Kentucky at the age of seven years by his father, James Bourne, who was a Revolutionary soldier. Bourne served as a private soldier in Richard Menefee's company at the battle of the Thames. He was also elected as a magistrate in Mt. Sterling, and was familiarly known as "Squire" Bourne. His reputation rests, however, on his ability as a teacher. For years he labored in the schoolroom and some of the State's most distinguished men were, at some period of their lives, his pupils. He is the Kentucky Doctor Thomas Arnold. One of Bourne's most distinguished pupils, Dr. Preston W. W. Hill, M. D., and one of Menefee's classmates, wrote an article on Menefee for the *Kentucky Journal of Education,*[1] many years ago, in which he testified to the excellent influence that Bourne exercised upon Menefee. Dr. Hill said that Bourne was quick to see that Menefee had the stuff in him out of which a great man could be made, and he did everything to encourage him to study and to think. He would take long walks out into the country with Menefee, as Professor James Woodrow did with a young Georgian, many years later, and whom the literary world loves as Sidney Lanier. He told Menefee of the arduous boyhood of nearly all the great Americans, how they had struggled with poverty and had overcome it. Bourne

[1] Article in Mrs. Robert Harding's Scrap Book. Begun in 1863.

read to Menefee North's translation of "Plutarch's Lives," which undoubtedly encouraged the young Kentuckian to aim at greatness.

Bourne used only three text-books in his school: Thomas Dilworth's Arithmetic and Speller and the King James Version of the Bible. Bourne was a Christian for nearly half a century and it is safe to say that his students were instructed in the principles of a catholic Christianity. He lived to see Menefee attain his fame, and also to have him testify, to Dr. Hill, after making one of his most brilliant speeches, that he was greatly indebted to his old teacher for his success.

Richard H. Menefee's classmate that attained celebrity far in advance of any other of his classmates, was Henry Smith Lane, who was two years younger than himself. Lane attended Bourne's school until he was sixteen years of age, when he studied law and removed to Indiana. He began practice at Crawfordsville, in 1837, and was sent to the legislature. In 1838 he was elected to the 25th Congress and served through the second regular session with Menefee. In Washington the two Kentucky schoolmates no doubt renewed their friendship, and must have passed many a happy hour talking over their boyhood school days spent at Bourne's school. Lane served in Congress until 1842, when Clay's defeat retired him from political life for the next sixteen years. He, like Menefee, was a Whig. In 1860 he was elected Governor of Indiana, and a few months later he was elected to the United States Senate, where he served six years. Lane

died in Crawfordsville, Indiana, June 11, 1881.[1] Over in Indiana, Lane used to tell the Hoosiers of the wonderful young Kentucky orator whose eloquence fascinated the people of his native State, and captured the 25th Congress.

Two other of Bourne's pupils, although only one of them was Menefee's classmate, achieved greatness: Albert G. Harrison and John Jameison. Harrison left Bourne's school one or two years before Menefee became a student there, and at the age of eighteen years entered Transylvania University at Lexington, where he graduated in the arts and in law. After a few years of practice at Mt. Sterling, he removed to Fulton, Missouri, and in 1837 was elected as a member of the 25th Congress—Menefee's Congress. In Congress Harrison made several good speeches on the public land question. He died in Fulton, Missouri, September 7, 1839.

Jameison, who was a student at Bourne's school at the same time that Menefee was a student there, emigrated to Missouri in 1825, and five years later was elected to the legislature, and served one term as Speaker of the House. In 1839 he was elected to Congress to serve out Harrison's term. After leaving Congress Jameison studied divinity and became a preacher in the Church of the Disciples.[2] He died in 1855 or 1856.

Menefee's other classmate, Dr. Preston Hill, was a leading physician in Montgomery

[1] Article on Menefee by P. S. Kent, of Crawfordsville, in Menefee Scrap Book.

[2] Judge Bay's "Reminiscences of the Missouri Bench and Bar." 1878.

County for many years, and wrote many valuable articles on men of history. His article on Menefee, already referred to, brought out the fact that Marshall had Menefee's teacher's name wrong, which has also been noticed; and a few weeks later, Reid's History of Montgomery County, a copy of which was found by the author in the great Wisconsin Historical Library, corroborated Hill's statement in this particular.

Walker Bourne lived to see five of his "boys" become celebrated men: Menefee, Lane, Harrison, Jameison and Hill. He died February 6, 1873, in his eighty-third year. He was a Democrat and Harrison and Jameison accepted his political faith, but Menefee and Lane became Whigs.

Menefee completed his first year at Bourne's school with great credit to himself. In the summer of 1822 he probably labored in the fields of some friendly farmer, and in the fall of the same year returned to Bourne's school. [1]One day, in the latter half of his second year at Bourne's school, he came home and found his mother in tears. Inquiring for the cause of her sorrow he was told that she had been mistreated by his step-father, and, seizing a carving knife he made ready to repay the injury that Lansdowne had inflicted upon his mother. A relation, who happened to be in the house at the time, interfered and serious trouble was averted. This difficulty caused "the lion of his nature to first break out."

Menefee now left the home of his mother,

[1] L. V. Clement's speech on Menefee. Incident related by Menefee's widow.

and at the age of fourteen years started out to face the cold and uncongenial world. I fancy that I can hear him pray the prayer that a Kentucky novelist of the present time put into the mouth of the "Little Shepherd of Kingdom Come," when he, at the same age as Menefee, was turned out into the world: "God, I am nothing but a boy, but I have got to act like a man now!"

Nothing else presenting itself, Menefee accepted the position as bar-keeper at a tavern bar in Owingsville. This tavern was probably his father's old tavern which had been rented at his death. Here the young Kentuckian sold drinks at the prices fixed by the Bath County court, on April 1, 1811.[1] He sold one-half pint of whiskey or peach or apple brandy at twelve and one-half cents, and one-half pint of French brandy or rum at fifty cents. He, no doubt, also assisted the tavern-keeper with his various duties, when there was nothing to do behind the bar. One night's lodging, supper, or breakfast cost sixteen and two-thirds cents; twenty-five cents was charged for dinner. Twelve and one-half cents was charged to keep a traveler's horse in the tavern barn over night, and the same amount was charged to let him graze, for twelve hours, in the tavern pasture. Richard H. Menefee and Patrick Henry are the only Americans that ever developed from bar-keepers into orators, within my knowledge.

Although he was willing to stoop to conquer, Menefee was not willing to occupy such a menial position during his entire life. So, after attending the bar for about one year, he gave

[1] Young's History of Bath County.

it up, and at the age of fifteen years became a teacher. It was not an uncommon thing for a district school teacher, of a half century ago, to be under sixteen years of age. He drilled the principles of arithmetic and spelling, as laid down by Thomas Dilworth and Noah Webster, and as he had learned them from Bourne, into his pupils in a vigorous manner. He received probably not as much money for teaching this school as for serving at the bar, but dauntlessly he taught it for one term and then went to Mt. Sterling, to live with his father's friend, Edward Stockton.[1] Menefee taught in Stockton's family and attended the Mt. Sterling public school for over a year. Thus, by teaching and studying he prepared himself for the great Transylvania University which was located in Lexington, Kentucky. It was the foremost institution of learning west of the Alleghenies.

In September, 1826, when he was in his seventeenth year, Menefee went to Lexington and entered Transylvania University. He matriculated as an irregular student, we may be sure, because of the irregular manner of his preparation. Marshall is perhaps correct when he said that Menefee entered Transylvania as an irregular junior. He was undoubtedly farther advanced in the humanities than he was in the sciences. Menefee is remembered, as he appeared on the streets of Lexington, by Mrs. Dr. Robert Peter, whose distinguished husband was professor of chemistry in the Transylvania University Medical School, as a very

[1] Historical Sketches of Montgomery County, prepared by Richard Reid. 1882.

bashful young fellow, dressed in jeans clothes that were probably made by his mother.

The famous scientist, Constantine Samuel Rafinesque, had left Transylvania the year before Menefee entered the University, but the most distinguished of the Transylvania presidents, Horace Holley, a Yale valedictorian and Unitarian minister of Boston, who had raised Transylvania from a high school to a leading American institution of learning, was president of the University at this time. The faculty consisted of four professors, besides President Holley. Rev. George T. Chapman occupied the chair of History, Geography, Chronology, and Antiquities; Thomas J. Matthews, A. M., was professor of Mathematics and Natural Philosophy; John Roche, A. M., occupied the chair of the Greek and Latin languages. The other professor, Rev. Benjamin O. Peers, an Episcopalian minister, gave up his chair to become acting-president when Holley resigned.[1]

Menefee was required to pay thirty dollars tuition fee, and five dollars for the use of the library and other incidentals. He lived in the dormitory and ate at the refectory, the University dining hall. Board and lodging were furnished him at one dollar and fifty cents per week, which was to be paid, as he stated in the letter to Lansdowne, quarterly. He was required to furnish his own bed and bed-clothing, fire-wood, candles, and washing. Breakfast was served at seven o'clock from spring to fall, and from fall to spring at eight o'clock. Din-

[1] Dr. Peters's History of Transylvania University, Filson Club Publication No. 11.

ner was served at two o'clock, and supper at sunset.[1]

The earliest extant letter of Menefee's was written to his stepfather, Col. George Lansdowne, with whom he had become reconciled. It was written after he had been at the University, several months, and is as follows:

Lexington, December 30th, 1826

Dear Col:—I should be glad if you would inform me as soon as you can conveniently whether or not you intend that I should pay what remains of the money which I have to Mr. Brooks for boarding, or whether yourself and Mr. Brooks have arranged it yourselves. If you recollect, John Fletcher loaned me all the books which are necessary in College and thus far I have been obliged to purchase but one or two; Owing, however, to a different arrangement in the studies of the different classes all the books (excepting one or two) which I borrowed from Fletcher have become entirely useless; those of them which are still necessary, he has sent for, and I shall be under the necessity of purchasing. I think it is very probable that I could sell all the books which I shall buy for almost the same sum for which I buy them. I have been obliged to be at far more expense than I expected to have been by getting shirts, shoes, etc.

College will not be open for the students until Tuesday and I should like to hear your advice before that time.

If you think it advisable I will either get the books and sell them again or keep them for Jackson; *I think, however,* it would be advisable to dispose of them, as there is almost every year a change in books, though I

[1] Transylvania Record Book from 1827-1839.

leave this entirely to your own wishes. My respects to Ma and the family.

Yours with gratitude

R. H. MENEFEE.

N. B. The reason of my wishing to know the agreement of Mr. Brooks and yourself is that the boarders who are here at this time make quarterly payments: and if I am also to do it, as I have been here three months, I should be about it. After getting a college receipt of $20, books and other necessaries I have yet remaining $22.50 which I shall expend in any manner you may advise.

I am anxious for an immediate answer as I am entirely at a loss how to act. R. H. M.

The Mr. Brooks referred to in the letter was James A. Brooks, who had charge of the University refectory during the entire time that Menefee was at Transylvania. "Jackson" was Andrew Jackson Lansdowne, Colonel Lansdowne's only son, born to him by his first wife. By Menefee's mother he had two daughters, one of whom married B. F. Tomlinson and the other one married Harrison Gill. Gill's daughters have assisted in the preparation of this biography.

President Holley[1] resigned on Monday, March 12, 1827, as he could not stand the crusade that had been waged against him. He was accused of being an atheist, deist, agnostic, all because he defined religion as the love of God and man. Holley had been elected as president of the University in 1818, and was warmly received at first; but a year or two later

[1] Peters's History of Transylvania University, Filson Club Publication No. 11.

the crusade began and, although he fought it for a long time, he became discouraged, resigned, and died of yellow fever some months later. He was one of the most eminent educators that has ever been in Kentucky.

Holley's resignation left the four professors, Chapman, Matthews, Roche, and Peers, in charge of the University. And, as has already been stated, Peers was chosen as acting president, and he presided over the affairs of the University until the Rev. Alva Woods became president in 1828. Woods had resigned as president of Brown University at Providence, Rhode Island, to accept the presidency of Transylvania. Some months before he took charge of the University, Professor Chapman had resigned to cut down the expenses of the University, as it was in great financial trouble. Professor Matthews was giving one-third of his salary to Professor Roche, and as Peers was acting president, the entire faculty for Menefee's second year at the University consisted of only three professors—Matthews, Roche, and John Brown, A. M., who was principal of the Academy.

A short time after Holley's resignation Richard H. Menefee wrote a letter to his eldest brother, Alfred Menefee, which is dated five weeks before the time that is usually given as the day upon which Holley resigned. Menefee tells his brother of Holley's resignation and the appointment of Peers, and the action of the board of trustees. These different dates I have been unable to reconcile.

Lexington, February 6, 1827

Dear Alfred, I have deferred writing so long, wishing to know whether or not the present continuance of the session would be changed. The trustees of the University met yesterday and contrary to the expectations of all the students, the session was continued until the first of July. I had been expecting thus far to have gone home in March, for I can assure you, having been from home so long, I feel very much like seeing you all; but as you see, by this change it will be impossible until the close of the session in July.— There has been considerable difficulty in selecting a president *pro tem* to fill the chair, after the resignation of President Holley; they have after much confusion appointed a young man named Peers to act as president until the end of this session, when there is expected a president from the Eastward who will remain permanently. Mr. Peers from what I have heard is a young man of fine talents, yet by no means equal to those of Dr. Caldwell who has been spoken of as president; though for reasons which I have mentioned in a letter to Ma, he has been refused.

I saw Dr. Paul in town some time since, on his way to Alabama; he appeared to be in very bad health, though he appeared confident of better health in a Southern climate; I heard the news of all the folks from him, which is the only time since Christmas.—

As you intend coming to Lexington shortly, I should be very glad if you could come by the 22nd of this month, as it is probable there will be a recess of a few days. There is one thing, however, which I wish you to attend to: if you recollect in a letter to you a month or two since I informed you that on entering College I had to advance $20 for a college receipt for the session as it was then arranged viz. ending on the first of March, there being two sessions of five months each in the year; but now since it is altered to but one session consisting of nine months I shall

have to advance the remaining $20 on the first day of March, the tuition fees amounting to $40 per year. I wish you, Alfred, to attend particularly to the management of this, and to relate the situation to the Colonel who will, I am confident, send me the money, if it be possibly in his power; but if he is in such a situation as to render it impossible without seriously injuring himself, I would certainly not insist on it; for although I should receive no greater mark of his friendship and should receive no more assistance from him than I already have, there is still sufficient to make me always his friend, and grateful for the interest and activity he has displayed in the completion of my education. I have already received far more than I could have reasonably expected; and if as I said, he is conscious of his inability in his present circumstances to continue my education I leave it entirely to his own choice; though for my own part, I had rather my education should be completed by him, who has expressed so great an anxiety for it.

I have nothing more except my respects to all.

Remaining at the same time your brother with affection,

RICHARD H. MENEFEE.

MR. A. MENEFEE.

The reason of my saying this is, that I have been told by Dr. Paul and I believe the Colonel told me himself, that through the dullness of the Virginia market, he had been forced to sell his stock on credit; and as I know his calculations were different, he must necessarily be embarrassed at this time.—I do not wish by what I have said that you should take upon yourself any or at most, any considerable expense; because I know your situation will not allow it; But as you know my determination either to finish my education or spend the last four pence in the endeavor, I hope you, Alfred, will attend to it strictly.—If you find it impossible to come to Lexington by the last day of

this month, I hope you will forward by mail about $25, since besides the College ticket of $20 I shall have to purchase more books having finished those I last bought.

R. H. M.

This second earliest extant letter shows Menefee to be, as did his first letter, anxious about financial matters. The Dr. Paul mentioned in the letter was probably Mrs. Menefee's family physician. Menefee's original punctuation, capitalization, and paragraph structure have been retained in these two letters and will be retained in other letters that will be found in this book, and also in his speeches and diary.

The two literary societies at Transylvania, at the time that Menefee became a student there, were the Union Philosophical and the Whig. Some time during his first year he joined the Union Philosophical and took a deep interest in the work. It is safe to say that this society was of more benefit to him than any one class he may have had.

When the University closed in the summer of 1827, Menefee returned to his home and, we may be sure, spent the vacation period in working on the farm and in reading whatever books that may have fallen into his hands. He probably returned to Transylvania in the fall of 1827 and matriculated as a full junior, having made up his back work. I have examined the files of practically all of the Kentucky newspapers from 1826-1841 and in none of the commencement programmes, or in the old Transylvania record book from 1827-1839, does Menefee's name appear as having received the

degree of Bachelor of Arts. Marshall said that Menefee did receive the baccalaureate degree, but Judge Kinkead is nearer the truth when he said, "He went through the junior year at the University with the highest honor." If Menefee had returned to Transylvania in the fall of 1828 he would have graduated in August, 1829, but the only bachelor's degree conferred in that year was upon George W. Johnson, who was afterward a classmate of Menefee's in the Transylvania Law School.

At the end of his junior year he returned to Mt. Sterling and, in the fall of 1828, if our conclusions are correct, taught a school there for two years. One of his pupils was a young girl, about fifteen years of age, whose name was Sarah Bell Jouett. At the same time that he was teaching her the common school subjects, he was also learning to love her. The affection was mutual, and about three years later she became his life companion.

At the time that he was teaching this school there lived in Montgomery County a Scotch-Irishman, Josiah Davis. Every Friday afternoon, when the week's work was done, Menefee walked out to the Davis farm, which was located five miles from Mt. Sterling, and stayed with him until Monday morning in order to get the benefits of his library, which was one of the best in Kentucky at that time.[1] It contained copies of Shakespeare and Burns. Scotchmen have always worshiped at the shrine of Burns and Davis was no exception. Here Menefee revelled in the mighty dramas

[1] Mr. Davis Reid, grandson of Davis, is my authority for this incident.

of the king of all literature, and read of the many sweethearts and love lyrics of Scotland's greatest bard.

In 1829 the commissioners of Menefee's father's estate divided and sold the slaves that Richard Menefee had left to his five sons.[1] Four of the boys, Richard H., Alfred, Alvin and John, each received two hundred and fifty-three dollars and sixty-six cents, while Allen, the cripple son, according to his father's will, was to receive twice as much as any of the others, and he therefore received five hundred and seven dollars and thirty-two cents. That Richard Menefee's sons received only two hundred and fifty dollars each from an estate which, at one time, comprised one-half of the land upon which Owingsville was built, simply shows that mismanagement was at work. Some one was responsible for the fact that Richard H. Menefee received only a few hundred dollars from this vast estate. We now come to a very important step in Menefee's career.

[1] Will Book B, in Bath County Clerk's Office.

CHAPTER III

THE YOUNG LAWYER-POLITICIAN

Menefee's second year as teacher of this little Mt. Sterling school was over in the early summer of 1830, and, after having finally decided to become a lawyer, he began the study of law under Judge James Trimble, one of the early judges of Montgomery County, who at this time was the Commonwealth's Attorney for the eleventh judicial district.

Trimble lives in Kentucky history, however, as the law preceptor of Richard H. Menefee. Menefee spent the summer of 1830 studying Blackstone's "Commentaries on the Laws of England," Kent's and Story's Commentaries, and the other law books that Trimble may have had in his library.

Late in 1830 Menefee's friend, Edward Stockton, died, and if Marshall is correct he obtained a license to practice law and undertook, as his first law case, to settle up Stockton's estate, which was in a bad condition. He then began to practice regularly at the Montgomery bar, and during the spring and summer of 1831 he took many cases before that court.

That Menefee realized the need of having more systematic training in law than Trimble had been able to give him is certain, as he left Mt. Sterling and came to Lexington in October, 1831, and entered the Transylvania Law School. This law school had been established

when Transylvania University was founded, in 1799, and George Nicholas, author of the First Kentucky Constitution, was the first dean. It is the fourth oldest law school in the United States.[1] The Litchfield Law School of Connecticut, founded in 1784, is the oldest, with Columbia and the University of Pennsylvania following. Henry Clay was dean of the school in 1805. The school had been discontinued for a short time before Menefee entered it, but now, under the leadership of Judge Daniel Mayes, it was as good as the Litchfield School, which was discontinued in 1833. The school began on the first Monday in November, and commencement was held on the first of the following March. The fees were $35 per session, with $5 extra for use of text-books and law library. Moot courts were held on Saturday. The course covered two years, but Menefee was given credit for the work he had done under Judge Trimble and permitted to enter the second year. The school began on Monday, November 7, 1831, and closed on Saturday, March 3, 1832.

On November 15, 1831, Governor Thomas Metcalfe, the eleventh Governor of Kentucky, nominated to the Kentucky Senate, for their advice and consent, the name of Richard H. Menefee, to succeed Judge Trimble, who resigned as Commonwealth's Attorney for his district. The Senate confirmed Governor Metcalfe's selection and Menefee was therefore elected as the fourth Commonwealth's Attorney of the eleventh judicial district. Menefee had been appointed since the adjournment of

[1] Dexter's History of Education in United States.

the legislature in January, 1831, and had therefore been acting as the attorney for the Commonwealth for some months before he came to Lexington to enter the Law School. Trimble probably looked after his duties when Menefee left them to make a more thorough study of law.

As all of the Kentucky historians have recorded Judge Mayes's life with many inaccuracies, I wrote to his son, Judge Edward Mayes, of Mississippi, the biographer of Lamar, asking him to prepare a sketch of his distinguished father, especially for this book, and the following sketch is based on the information that he sent me.

Daniel Mayes was born in Dinwiddie County, Virginia, on February 12, 1792. His father, Robert C. Mayes, married Agnes T. Locke, a descendant of a brother of John Locke, author of the "Essay on the Human Understanding." Robert C. Mayes removed from Dinwiddie County when Daniel was two years of age, to Lexington, Kentucky, but after a short stay then settled permanently in Christian County, Kentucky.

Daniel Mayes was reared and educated in Christian County and began the practice of law there. Toward the close of the war of 1812 he enlisted in the Kentucky troops but saw no active service. In 1817 he married Cynthia Bowmar, daughter of Herman Bowmar, of Versailles, Kentucky. The following year he was the editor of the Hopkinsville *Western Hemisphere*. He was the only editor in Kentucky who opposed the organization of State banks. In 1825 he represented Christian

County in the legislature, and about 1828 was elected Circuit Judge. He became dean of Transylvania Law School in the fall of 1830, and when Menefee entered the school Mayes was serving his second year as dean. His wife died in 1831, and two years later he married Elizabeth Riggs Humphreys, of Fayette County, the widow of Hon. Chas. W. Humphreys.

In June, 1838, Mayes resigned as dean of the law school and moved to Jackson, Mississippi, where he practiced his profession. In politics he was an ardent Henry Clay Whig, and he instilled, no doubt, Whig principles into the mind of Menefee in a way that they had never been before. When Clay visited Mississippi Mayes delivered the address of welcome at Jackson.

In 1845 he was defeated for Attorney-General of Mississippi, and five years later was elected lecturer on the common law in the University of Louisiana Law School, and he removed to New Orleans, where he also practiced. He did not like New Orleans and after two years there he returned to Jackson, where he resided until his death, which occurred from pneumonia, February 6, 1861. He left children by both marriages and has many descendants in Mississippi.

Henry S. Foote in his "Bench and Bar of the South and Southwest" and also Lynch's "Bench and Bar of Mississippi," eulogizes Mayes as a lawyer and as a man.

Judge William B. Kinkead, who was a member of the first-year class, in a sketch of Menefee, gives the following account of Menefee's

first night at the Law Society: "When Menefee joined the law class he was unknown to most of the members. My attention was first called to him on the evening of the meeting of the debating society. He took his seat in a retired part of the room. The debate progressed some time. He was silent. A member went to him and proposed that he should take part in the debate. When an opportunity offered, he arose, and in a calm, deliberative way proceeded to discuss the question, and that speech stamped him at once as the leading debater of the class."

On Saturday, March 3, 1832, twelve young gentlemen, all natives of Kentucky, were graduated from the Transylvania Law School with the L. B. degree:[1] James W. Allen of Shelby County and William C. Bullock of Shelbyville; J. W. Andrews of Mason County and Jos. W. Bashaw of Henry County; Herman Bowmar, Jr., of Versailles and William N. Bullitt of Louisville; Richard F. Richmond of Frankfort and William J. Steele of Woodford County; Larkin B. Smith and George W. Johnson of Lexington; Oscar White of Paris and Richard H. Menefee of Mt. Sterling.

Of these eleven classmates of Menefee's the one that afterward became more distinguished than any of the others was George W. Johnson. Johnson was born near Georgetown, Kentucky, May 27, 1811, and was a tutor for some time in Transylvania University before his graduation in law. After graduating he returned to Georgetown, where he practiced law for a short time, but finally gave it up for

[1] Transylvania University Record Book, 1827-1839.

agricultural pursuits in Kentucky and Arkansas. He represented Scott County in the Kentucky legislature from 1838 to 1840. At the beginning of the civil war he labored earnestly to place Kentucky in the Confederacy, but in September, 1861, he went South in Gen. John C. Breckinridge's command. He returned from the South some weeks later and finally succeeded in getting representatives from sixty-five Kentucky counties to meet at Russellville, in Logan County, from November 10th to the 21st, and a constitution was formed for a provisional government. Bowling Green was chosen for the seat of government and Johnson was chosen Governor. The Confederate Congress admitted Kentucky on December 10 as a Confederate State.

Johnson returned to the battlefield and was mortally wounded at Shiloh on April 7, 1862, and died two years later. He was the only Governor, either from the North or South, that fell in battle during the civil war.

Another of Menefee's classmates, William J. Steele, was born a few months before Menefee. The year after his graduation he removed to Alabama, and engaged in the practice of law with Governor Metcalfe's son. Steele returned to Kentucky in 1852 and served for a number of years as judge of the Woodford County Court. He died in 1886. He was a very impulsive man and very sympathetic.

Of the other members of the class, Bashaw, Bullock, and Smith represented their respective counties in the Kentucky legislature for one term each. Richmond practiced law at Frankfort with Benjamin F. Hickman for a number

of years, and married his daughter, who was the most noted beauty of her time. He was unhappy with her, however, and late in life removed to Missouri, where he finally died.

William N. Bullitt gave up the law after graduating and became a merchant. Of the remaining members of the class, Allen, Andrews, Bowmar, and White, not enough has been found out to warrant a record of it in this book.

Immediately after his graduation, Richard H. Menefee returned to Mt. Sterling, where he again took up his duties as Commonwealth's Attorney for the eleventh judicial district.

Professor Mayes began another session of the law school on the first Monday in April, and continued it for six months. Menefee did not stay for this session, but returned to the school for some special work about three years later.

One of the members of the first-year class that Menefee became intimate with was Richard Pindell (1812-1870). Pindell was in the Kentucky House of Representatives in 1838, and was one of the most prominent young men of his day.

After the school was over Pindell went East on an extended visit. He wrote to Menefee of the public men that he had seen in Baltimore and Washington and Menefee wrote him the following letter in reply, May 19, 1832, addressed to him while he was in Baltimore.

Dear Pindell:—

I received with great pleasure your letter of the 5th May. It gave me an account of matters with which I

am perhaps as little acquainted as any person in the country. The parts of it which describe and compare the respective talents of our public characters were especially interesting to me. In this latter particular I must ask you to make as minute and as just observations as you can and I shall expect you to communicate to me the result of them. When I consider your eminent capacity to hate as well as admire I shall of course not calculate on infallibility in your opinions. And in your description of their persons, I shall be inclined from imperfection of your physical sight to tolerate almost any inaccuracy. But recollect that I concede no such excuse for your intellectual vision with respect either to its perfection or its extent and I shall accordingly expect a close approximation to truth in the description of character. Nor, have I any fear of disappointment.

I am a little apprehensive that you are disposed to regard the men and affairs around you with too severe an eye. I think it probable that a young man translated at once from retirement and the contemplation of government and its theoretical administration to the great center of power and the practical exercise of it, is exposed in some degree to erroneous impressions. He necessarily discovers a multitude of departures from the purity he had thought himself entitled to expect, and his error most frequently consists in attaching too much consequence to these departures not remembering that the wisdom and virtue of our public characters are but those of frail man, and that all theories committed to the hands of men for practical display suffer greatly in their purity by the operation.

I fear, however, that after making every statement that either these or any other causes, or even charity itself could claim, your representation is lamentably correct. And if so, I am not at all surprised that you should somewhat regret your visit to Wash-

ington—as having been the means of bringing you to the knowledge of a very painful tho undoubtedly an important truth. I cannot fail to admire the spirit that blazes at even the suspicion of corruption, if it were merely suspicion; but I must repeat to you what we all joined in recommending to Riley on the famous occasion alluded to by you—be moderate.—

Having thus performed the modest task of advising him who is to sit in judgment over the Executive and Legislative functionaries of the Nation, I proceed to the more humble but not less pleasant task of telling you that I shall be in Lexington at the races on the 24th, where I shall expect to see many of our fellow soldiers, and only regret that you will not be amongst them. I calculate on great pleasure from a visit of this kind. Indeed, I regard it as one of the most important of my last winter's acquisitions, that my intercourse with the Law class has contributed in a very high degree towards making me a *gregarious animal*, to which I thought for a long time I was constitutionally averse. In fact, Dick, with due and my accustomed modesty, I say it, I am as social and practical a man as you could desire to see.

Write to me about everything from the fate of the Republic down to———Amos Kendall, always remembering that the visible enters largely into my philosophy.

With the highest regard,
Your friend and ob't servant
RICH'D H. MENEFEE

R. PINDELL, ESQ.

In the early part of August, Menefee came to Lexington to claim his pupil-sweetheart as his wife. At the Jouett residence, about two miles from Lexington,[1] on the 14th day

[1] Register in the old Jouett family Bible.

of August, 1832, Sarah Bell Jouett was united in marriage to Richard Hickman Menefee. Rev. Nathan H. Hall, pastor of the First Presbyterian Church and the most powerful exhorter that has appeared in the Presbyterian Church in Kentucky, performed the ceremony. Martha B. Mitchell, who afterward became the wife of Oliver Frazer, was the maid of honor. After the ceremony the happy couple went back to Mt. Sterling to live, where Menefee had provided a home.

Sarah Bell Jouett, the second child and eldest daughter of Matthew Harris Jouett, the most distinguished painter that Kentucky has given to the world, was born on April 2, 1815, and was therefore nearly six years younger than her husband. When LaFayette visited Lexington in 1825 she and Martha Mitchell presented him with a basket of fruit and in return received the blessing of the great Frenchman. Menefee and his wife were married sweethearts for nearly a decade, when his death separated them. About a quarter of a century after his death, Mrs. Menefee returned to Mt. Sterling on a visit, and the older people of the town gathered around her and talked with her of the man whom they idolized. She was a noted conversationalist and had an excellent memory. Like the wives of Clay, Davis, Jackson, Breckinridge, Polk and many other great Americans have done, Mrs. Menefee survived her husband many years—over a half century. She died in Louisville, Kentucky, December 13, 1898.

On January 28, 1833, Governor John Breathitt, who had been elected in August, 1832,

sent Menefee's name to the State Senate again for their vote of confirmation as Commonwealth's Attorney for the eleventh judicial district. The law creating the office of Commonwealth's Attorney was first enacted in 1813, and it laid down three rules, by the observance of which a man could hold the office: that his behavior must be good; the court must be continued; and, of course, his office must be continued. The committee, composed of Ben Hardin, the famous Kentucky lawyer, and others, decided that Menefee's behavior had been good and the court before which he practiced and his office had both been continued. The law of 1813 did not place a time limit on any of the attorneys, one man having served for ten years, therefore Menefee was entitled to keep his office. As all of Breathitt's predecessors in the executive chair had continued the attorneys in office, it clearly seems that the twelfth Kentucky Governor was not informed in regard to the law.

On February 8, Menefee and his wife entered into a playful contract, drawn up by Menefee, in his own handwriting, in regard to rising early in the morning. The contract is given under the respective seals, and they both agreed that the mind and body are seriously impaired by sleeping late; that they were desirous of correcting their habits in this particular; that they each had the strongest of all interests in the preservation of the mind and health of the other; now they had agreed that, from and after this time they will rise early (at all events, ill health and Sundays excepted, by

sun-rise), and if either of said parties should violate said contract, such violation should mean a penalty, to be paid to the other, amounting to one dollar.

Menefee's mother died on June 21, 1833, at the age of forty-six years, and was buried at the famous Olympia Springs. Menefee's grief was terrible and he was inconsolable for some time. He literally worshiped his mother, and thought her to be "the smartest and best woman God ever made."[1]

Menefee's stepfather, Col. George Lansdowne, died on October 3, 1851, and a beautiful monument marks the spot where he and the mother of Menefee sleep, side by side, in the cemetery at Olympia Springs.

From Mt. Sterling, on August 11, 1833, Menefee wrote the following letter to his wife, who was probably visiting at her father's home, near Lexington. The opening paragraph has been eliminated because of its affectionate tone. About forty of Menefee's letters to his wife are extant and they show him to be a very delightful fellow indeed.

Mt. Sterling, 11th Aug. 1833.

* * * * * * * * * * * * *

I labor to persuade myself that an absence like the present one ought not to be regarded, that you are not far from me and that I shall soon see you. It is in vain a feeling of gloom comes over me that I can but seldom resist. This may be owing to some secret contemplation of my circumstances which render my absence necessary. Why have I not command of my time? Why is it that I am compelled to drag myself

[1] Mrs. Menefee's letter, February 18, 1898, to Mr. Clements.

from (I might say) a sick wife? But all such reflections I am soon ashamed of. I would not be rich this moment if I could be so; that is, for my own sake, I would not be rich. I wish to pass through the wisdom-imparting paths, and scenes that lead a man to wealth. I wish my powers called forth in pursuit; so that when a few years shall have given me wealth, I may be found in possession of a high fame—acquired in the pursuit of it. Practical wisdom grows out of a practical intercourse with man; an intercourse to which one must be in fact a party. Not an occasional participation in the common affairs of man, but constant and from necessity. It is certainly desirable that all conditions of life should, if possible, be understood; the highest and the lowest. No condition can be thoroughly comprehended and realized unless we are actually parties to it. It is obvious that in understanding these various conditions of life by experience—it is the most rational as well as the most advantageous to begin with the humblest. All nature—everything—proceeds in this way. Besides, it but seldom occurs that he who from a high has been precipitated by misfortune or otherwise to a low condition, can preserve sufficient philosophy to profit by the experience which his new condition might supply him. He will not observe; he is apt to regard himself as lost. But if a young man can be convinced in the outset of life that observation and reflection upon men and manners are all important to him in his ulterior plans; if he can once contract a habit of observation, I consider him in the highway to success in any pursuit he may choose to adopt—I have been led to believe that many, very many, who have the most sufficient capacity to observe and reflect, pass through a lifetime of facilities without doing so, merely because they have never thought of it. It will appear forcibly to any who choose to make the experiment, how many opportunities we forego by remissness, if he will go into a company with the express view of making ob-

servations. He will see and reflect upon a thousand things which he otherwise would never have noticed; things, too, that may shed a volume of light upon the character either of ourselves or others. It is a most happy position to sit in the midst of actors of every kind governed and wafted about by emotions of all descriptions—you an independent, and to them an unknown observer; prying, as it were, unseen, into their hearts.

I set out to write a love letter and find I have written a moral essay—I am pretty much of a d—— fool.

On October 27, 1833, Menefee's first child was born, a son, and he was named Alexander Hamilton Menefee. Richard H. Menefee, like another distinguished Kentuckian, Gertrude Atherton, believed that Hamilton was the greatest of our statesmen. He placed him above Washington, Jefferson, or any of the other illustrious founders of our Republic.

Menefee's joy was to be ephemeral, for on December 6, 1834, his son died. But a few years later he was given a son who was to perpetuate his name and carry on his traditions.

The catalogue of the Transylvania Law School for January, 1835, shows that Menefee was again in attendance at the school, probably doing some special work. A mistake occurred in the catalogue by which his middle name was abbreviated with a "B" instead of with an "H." The catalogue also shows that he was still living in Mt. Sterling, and the L. B. which he had won three years before was printed after his name.

The famous Kentucky Chief Justice, George

Robertson was assisting Professor Mayes in the school at this time. Joshua F. Bell, of Danville, who was afterward one of the six Kentucky Commissioners to the Washington Peace Conference of 1861, and Lazarus W. Powell, of Henderson, afterward the twentieth Governor of Kentucky, were matriculates of the school during the time that Menefee was there.

Menefee returned to Mt. Sterling, where he continued to practice and attend to his duties as Commonwealth's Attorney for his district. Some time in the winter of 1835-1836 he sent his resignation to Governor James T. Morehead, who had become Governor at the death of Breathitt, which occurred February 21, 1834, as Commonwealth's Attorney for the eleventh judicial district, and announced himself as a candidate for the Kentucky House of Representatives, from Montgomery County, to succeed David Heron and James McKee. His candidacy was received favorably by his people, and he, with Gen. Samuel L. Williams, who had been at the battle of River Raisin, and who was to serve for nearly a quarter of a century in the legislature, were sent as delegates from Montgomery County to the State Convention of Kentucky Whigs, which met in Lexington on April 19, 1836.

Judge John Green,[1] of Lincoln County, who had studied law under Henry Clay and who was a prominent circuit judge for many years, was chosen as president of the convention. Five vice-presidents and five secretaries were

[1] Lexington *Observer* and *Kentucky Reporter* for April 27, 1836.

then appointed and the convention got down to business.

Green's first appointment was to select a committee of fifteen men to propose suitable resolutions of Whig principles for the consideration of the convention. The secretaries were appointed to ascertain and report to the convention the names of the delegates in attendance and the counties that they represented. Such prominent Kentuckians as Garrett Davis of Bourbon, Richard Hawes of Clark, Leslie Combs, Edwin Bryant, Charlton Hunt, and the Wickliffes of Fayette, Robert P. Letcher of Garrard, Cassius M. Clay from Madison, John B. Thompson from Mercer, and William B. Kinkead from Woodford County, were present.

Clay took a prominent part in the deliberations of the convention. His first motion was that a committee of thirteen should be appointed to report a plan for the complete union of the Kentucky Whigs in the coming August elections. His motion was adopted. The convention then went into a committee of the whole with a view of adopting such measures that would insure harmony in the ranks of the Whigs of Kentucky. Through its chairman it resolved to raise a committee of general consultation to consist of as many members from each county represented in the convention as such county may have representatives in the State legislature. It was further resolved that the county delegates appoint the member or members of said committee for each county, whose duty it shall be to ascertain the public sentiment of their respective

counties by conference with their colleagues in the convention now assembled. And said committee is ordered to report upon such subjects as it shall deem proper to the convention. It was further provided that each county represented in the convention have at least one member upon the committee. For Fayette County, Charlton Hunt, Judge A. K. Wooley and Robert Wickliffe, Jr., were appointed to serve on the committee, and from Montgomery County General Williams and Menefee were appointed, with many others.

As a second resolution the chairman of the committee thought it expedient for the convention to recommend to the people a suitable person for Vice-President of the United States. Both resolutions were adopted and the convention adjourned until the next day.

At the beginning of the second session of the convention, President Green read letters from James Clark and Charles Wickliffe, saying that, although they had been nominated by the legislature for Governor and Lieutenant-Governor, if the convention did not sanction the legislature's action they would withdraw.

General Williams, Menefee's colleague, offered a resolution that Gen. William H. Harrison for President, Francis Granger for Vice-President, James Clark for Governor and Chas. A. Wickliffe for Lieutenant-Governor, be recommended by the convention to the people of Kentucky as suitable persons for the positions. His resolution was unanimously concurred in, and he then moved that a committee of four be appointed to notify

Clark and Wickliffe of the convention's action. Gen. Leslie Combs, with General Williams and two other gentlemen, were appointed by Green as a committee of notification.

The services of Acting-Governor Morehead and of United States Senator Henry Clay were commended. After the adoption of a resolution to the effect that the Harrison committee of Louisville be requested to combine their labors to promote the Whig cause in Kentucky, in co-operation with the Central committee of Lexington, and a committee appointed to see that the business transacted by the convention be printed, the convention adjourned, *sine die*, and Menefee went back to Mt. Sterling to begin an active campaign for the legislature. That he spoke at every corner and cross-roads of Montgomery County is certain. Although the name of his opponent for the legislature is lost to history we may be sure that the Van Buren Democrats put up the strongest man in Montgomery against the young Whig, who was just at the beginning of his career. Practically all of the Kentucky newspapers were at this time devoted to the Whig cause, and, of course, did not give the name of Menefee's opponent. Kentucky at one time in her history had a Secretary of State who could not see that the election returns for 1836 might be valuable for a historian of that period, and he destroyed them as so much rubbish. Surely the State's foremost novelist is right when he said: "Write the biographies of the Kentuckians who have been engaged in national and local politics, and you have largely the history of the State of Kentucky.

Write the lives of all its scientists, artists, musicians, actors, poets, novelists, and you find many weary milestones between the chapters." Or, as Bishop A. Coke Smith said: "The Southern people are the greatest history makers that have ever lived upon the earth, but are the poorest history preservers that the sun has ever shone upon." Both of these statements I have found to be too true.

The candidate for Lieutenant-Governor, Charles A. Wickliffe, spoke in Mt. Sterling on Monday, July 4, and at Owingsville on the following day. He was probably introduced by Menefee to the people of the two towns, or, at any rate, delivered a speech at the conclusion of Wickliffe's.

In 1835 the second Seminole war broke out and was waged on the Southwestern frontier. Maj.-Gen. Edward P. Gaines was in command of the United States troops, and the famous Seminole warrior, Osceola, was leading the Indians. The war was caused by the Indians breaking a treaty with the Government by which they had promised to give up their lands and move to Indian Territory. This war continued until 1842 and was the fiercest Indian war in which the United States was ever engaged.

In the summer of 1836 it was at its highest point, and on July 16 Governor Morehead issued a proclamation, at the request of President Jackson and General Gaines, calling for 1,000 mounted Kentuckians to rendezvous at Frankfort on August 17 to proceed to Camp Sabine. Before August 3, forty-five companies offered their services, but only ten were ac-

cepted, composed of one hundred men each. The company raised in Montgomery County elected Richard H. Menefee as their captain, but as only a thousand men were needed, and as ten companies reached Governor Morehead before Menefee's did, his company was refused. Although he was making a bitter fight for a position that would require a man of mind, he was, like his father, ready to become a man of action.

Governor Morehead appointed Gen. Leslie Combs, of Fayette County, as colonel of the Kentucky regiment, but before he got his command ready to march, orders were received for their discharge. General Combs assured his regiment that they should have pay for their loss of time, and a resolution was passed by the legislature on December 7, 1836, asking the Kentucky Congressmen to use their influence to obtain the pay for the Kentucky troops that had been raised for the second Seminole war. Although they saw no active service they had suffered a loss of time from their various duties.

On August 3 the election began and, according to the second Kentucky Constitution, continued three days. The *Kentucky Gazette* for August 8 announced Menefee's election as representative from Montgomery County to the next legislature. Although Montgomery County thus gave Menefee, a Whig, a large majority, they elected a Van Buren man as State Senator, Aquila Young. It would seem as if those sturdy Montgomery County farmers were, even at that early date, voting for the man and not for the ticket. They offer one of

the earliest examples of the "independent" vote in Kentucky history.

Clark and Wickliffe were elected by large majorities, and forty-six Whig representatives were elected to the House of Representatives against twenty-three Van Buren Democrats.

On August 31 Clark and Wickliffe were inaugurated as Governor and Lieutenant-Governor of the Commonwealth of Kentucky. The inauguration took place in the hall of the House of Representatives, and Charles S. Morehead delivered the address of welcome on behalf of the citizens of Frankfort, and both Clark and Wickliffe made speeches in reply, assuring the people that they would preside over the destinies of Kentucky as God showed them the way. Kentucky, too, was just on the eve of a financial panic which was to continue for the next five years.

CHAPTER IV

IN THE KENTUCKY LEGISLATURE

Late in November, Menefee, in company with his wife, left his home in Mt. Sterling, and arrived in Frankfort, the capital of Kentucky, to discharge those legislative duties which were before him, and which the people of Montgomery had elected him to perform.

The Kentucky legislature convened in Frankfort on Monday, December 5, 1836.[1] The Senate was called to order by Lieutenant-Governor Charles A. Wickliffe, and the House was called to order by Thomas J. Helm, former clerk. A quorum was present and the election of a Speaker was immediately gone into. Christopher Tompkins, Jr., of Barren County, nominated Robert P. Letcher, of Garrard, for Speaker, and Thomas J. Riley, of Bullitt, nominated John L. Helm, of Hardin County. Helm was elected by a vote of forty-eight to forty-five. Menefee voted for Letcher. Helm took the Speaker's chair and returned his thanks for the honor that had been conferred upon him. Thomas J. Helm was elected Clerk of the House and messages were then interchanged between the Senate and House, saying that both bodies were ready for legislative business.

The leading legislative lights of the session of 1836-1837 were, in the Senate, men like Archibald Dixon, of Henderson, Henry Clay's

[1] House Journal for 1836-1837.

successor in the United States Senate in 1852; James Guthrie, of Louisville, Secretary of the Treasury under Franklin Pierce; Samuel Hanson, one of the most distinguished lawyers that Clark County has ever produced; Thomas Metcalfe, of Nicholas, the eleventh Governor of Kentucky, and Aaron K. Wooley, a renowned jurist of Fayette County. In the House, we find men like Menefee, Robert Wickliffe, and Henry Daniel of Fayette; Fountain F. Fox, of Pulaski; Ben Hardin, of Marion; Richard Hawes, of Clark; Robert P. Letcher, of Garrard; Thomas F. Marshall, of Louisville; William W. Southgate, of Campbell; Christopher Tompkins, Jr., of Barren, and the "baby" of the House, Lazarus W. Powell, who was afterward elected Governor of Kentucky.

The second Kentucky Constitution of 1799 plainly said that "No person shall be a representative who, at the time of his election, is before the legislature convened, and he was born October 6, 1812, and at the time of his election, in August, 1836, he was not twenty-four years of age, and was just old enough to enter the legislature about two months before it assembled. His age was not discussed, however, and he was permitted to take his seat. Menefee was twenty-seven years of age the day before the legislature convened, and he was therefore the second youngest member of the House.

Thomas F. Marshall offered resolutions of respect on the death of Francis K. Buford, of Woodford County, a representative-elect of this legislature, who had died on December 3,

from a stab received in an encounter with a Mr. Smith. His resolution was passed.

On Tuesday, December 6, Governor James Clark transmitted to both branches of the legislature his annual message, in which he informed them that they had assembled to exercise the highest privilege known to freemen. That God had been good to Kentucky and filled her hills and valleys with many natural resources. The public finances were not in as good condition as he desired them to be, which was the most important paragraph in his message, as the awful Panic of 1837 was just beginning. The laws in general seem to be adequate, and the love of law seems to exist among the people. The judiciary, however, should be improved, he thought, and the public school system should be strengthened. He was also glad to see the decline of abolitionism. The various Kentucky asylums for defectives should be improved, and he closes his message by assuring them of his hearty co-operation.

Leave was then given to the different representatives to bring in bills and Menefee introduced his first bill in the House, "For the benefit of the Owingsville and Big Sandy Turnpike Road Company." The first section of the bill repealed the former acts of the legislature in authorizing the repair of the road and the building of a turnpike gate, and took the control of the road out of the hands of the board of commissioners, and put it into the hands of a company. The second section said that the commissioners and keeper of the gate should pay over all funds for which they may be responsible, and on their failure to do so, suit

would be brought, when the Board of Internal Improvement thought that the public interest required it, and that the gate and the company should be discontinued. It was also provided that the company should apply the moneys coming from said gate to the same objects to which the commissioners had applied them. Section three said that the company may, by suit or suits, coerce the payment of the calls on stock that was subscribed by individuals or corporations. Section four repealed the act to amend the act creating the company, which Governor Morehead had offered February 12, 1836, and the fifth and last section of Menefee's first bill increased the capital stock of the company to two hundred thousand dollars. This act was passed and approved by Governor Clark on February 16, 1832. This was the first pike built in Bath County.[1]

Bills by Marshall, Tompkins, Powell and others were introduced, and resolutions to wear crape on the left arm for thirty days in remembrance of John W. Anderson of Union County and George Morris of Christian County, were adopted. It was further decided to proceed to an election, by joint vote of the two houses on December 15, of a United States Senator for six years to succeed Henry Clay, whose term expired March 3, 1837. After some minor business the House then adjourned.

On December 7 Speaker Helm appointed the standing committees, and Menefee was appointed on the Committee of Ways and Means.

[1] Young's History of Bath County.

with David Meriwether of Jefferson County, George W. Williams of Bourbon, Tucker Woodson of Jessamine, Roger F. Kelly of Christian, Edward B. Cheatham of Adair, and William C. McNary of Muhlenberg County. Woodson was later to have the pleasure of casting his vote for Menefee for the highest office in the gift of the legislature, the United States Senate.

A motion was then made to instruct the Board of Internal Improvement to send an engineer to survey the Big South Fork of the Cumberland River with a view to making the stream navigable for flat boats, and to also see what the mineral prospects were in that region. The House then adjourned.

On December 8 a resolution was passed to ask Kentucky Congressmen to do all in their power to procure the acknowledgment of the independence of the Republic of Texas by the United States. Governor Clark was instructed to send a copy of the resolutions passed to each of the Kentucky Senators and representatives.

The Committee of Ways and Means, Menefee's committee, was instructed to propose the act to equalize taxation. While Menefee had the assistance of his six colleagues, it is certain that he was almost wholly the author of the "equalizing act." On the following day the committee reported the bill, and the first section of it was passed without amendment, but the provisional clause was amended by Pleasant Bush, of Clark County. The body of the bill, then, was the work of Menefee, while the conditional clause was the work of Bush.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all persons, from and after the tenth day of January eighteen hundred and thirty-eight, when giving in their lists of taxable property, shall be, and they are hereby required to fix, on oath, a sum sufficient to cover what they shall be respectively worth, from all sources, on the day to which said lists relate, exclusive of the property required by law to be listed for taxation, (not computing therein the first three hundred dollars in value, nor lands not within this State, nor other property out of this State, subject to taxation by the laws of the country where situated,) upon which the same tax shall be paid, and the same proceedings in all respects had, as upon other property subject to the *ad valorem* tax: *Provided*, That nothing herein contained shall be so construed as to include the growing crop on land listed for taxation, or one year's crop then on hand, or articles manufactured in the family for family consumption.

On February 11, Robert P. Letcher, from the Committee for Courts of Justice, to whom was referred the Senate bill, entitled, "An act to repeal an act entitled, 'An act to amend the law prohibiting the importation of slaves into Kentucky,'" which was approved February 2, 1833, reported the bill without amendment. And, after some discussion, it was decided to table the bill until June 1. Menefee resisted the repeal of the act, and voted to table it. His speech on this bill Marshall called "the master effort of his mind that winter." I have examined the files of the old Frankfort *Commonwealth,* trying to find this speech, but neither this one nor any other of Menefee's speeches in the Kentucky legislature have been preserved.

On the following day, Menefee, with Marshall, Southgate, and several other men, were appointed as a committee on the part of the Governor's message that related to the judiciary.

On December 15, according to the resolution of the 6th, the House proceeded to the election of a United States Senator in the place of Henry Clay, whose term was almost expired. In the House, Clay was nominated by John Kincaid of Lincoln County, and James Guthrie was nominated by Patterson C. Lander of Livingston County. The House vote resulted in fifty-five votes for Clay and forty-four votes for Guthrie. Marshall, from the committee to compare the joint vote of the two houses, reported the result to be, sixty-seven votes for Clay and fifty-four for Guthrie. Clay was then declared elected for the next six years. Richard H. Menefee cast his vote for Henry Clay.

On December 17 Menefee presented the petition of sundry citizens of Mercer and Lincoln Counties praying for the foundation of a new county out of parts of said counties. The struggle for this new county had been going on in the legislature for twenty-five years and was to be consummated five years later. Menefee then had an important part in the foundation of the new county which, in 1842, was formed, and named Boyle County, in honor of the distinguished Kentucky Chief Justice, John Boyle.

Speaker Helm appointed a committee of four representatives, David Trimble of Greenup County; Franklin A. Andrews of

Fleming; Samuel Stone of Bath, and Richard H. Menefee of Montgomery County, to bring in a bill founding a system of general education in Kentucky. A day or so later Menefee reported this bill, and after being read three times, one hundred and fifty copies were ordered to be printed for the use of members of the House.

I have been unable to obtain a copy of this bill, but Judge William F. Bullock, of Louisville, the following year, certainly used it to advantage in drafting the present system of education in Kentucky. While Judge Bullock lives in Kentucky history as the founder of the common school system, Richard H. Menefee was the originator of the present system. It is the same story of one man originating a thing and another man perfecting it. The perfecter always gets the honor of being the founder. For instance, Fitch and Fulton, in regard to the steamboat.

Before Menefee introduced his education bill in the legislature,[1] the legislature had, at different times, sent agents to visit other States and report in regard to the various systems. These visits had amounted to nothing, however, as up to 1836 Kentucky had no money with which to establish a system. But in 1836 the State got its share of the surplus resulting from the sale of public lands, and with one-half of it, which was $850,000, plans to establish the system were begun. On the last day of the legislature, of which Menefee was a member, Governor Clark approved Menefee's education bill. At the next session of the legis-

[1] Baber's Popular Education in Kentucky, 1881.

lature Judge Bullock "worked over" Menefee's bill and had it passed, permanently establishing the present system of common school education in Kentucky.

When Speaker Helm let his gavel fall the day before Christmas, 1836, a quorum was not present and he adjourned the House until January 2, 1837. Menefee probably spent the holidays with his wife's mother, Mrs. Jouett, in Lexington. When the House assembled after the holidays, Thomas F. Marshall, from the committee composed of himself, Menefee, Southgate, and several others, which had been appointed by Speaker Helm as a committee on that part of the Governor's message relating to the judiciary, made his report. Marshall commended Governor Clark's attitude toward the judiciary of Kentucky, and the famous orator went into the history of all time in so doing. He was preparing himself for the delivery of those unique history lectures that he was to give during the last years of his life.

On January 3 a bill was tabled asking the Kentucky Congressmen to vote for Richard M. Johnson, a Kentuckian, for Vice-President in preference to Francis Granger of New York.

In February, 1836, Governor Morehead had approved a bill, authorizing Henry C. Harris, guardian of Emeline May, the infant heir of Samuel May, deceased, to sell May's real estate and pay his (May's) debts, and for other purposes. James Franklin had bought the property, and had executed bonds for the purchase money. Harris had lost the bond for the title, and besides, to sell May's property would be an injury and loss to the infant heir, Emeline

May. On January 10, Menefee presented the petition of Harris, praying for an amendment of this act of February, 1836.

Marshall said in his eulogy that it was upon this bill "that he was first heard to speak." As a matter of fact, it was one of the last speeches that Menefee delivered in the Kentucky House of Representatives.[1] Menefee's wife sat in the gallery and did not know that her husband was going to speak until he arose and she heard his flute-like voice. "She felt the blood rush to her face, and with feverish anxiety she waited for the climax, and drew a large veil over her face to hide her blushes and confusion, should he fail. Fail? That was not written in his category of words." The petition asking for the amendment was passed.

On January 14 he presented a bill to incorporate the Mount Sterling academy for the education of females, which was passed and approved February 23. This academy did good work for many years.

On January 18, Menefee moved the following: "That, His Excellency, the Governor, be and hereby is requested to inform the House what proportion of the Internal Improvement fund set apart by the act of February 28, 1835, for the three great sections has been expended—how much in the southern section—how much in the middle section and how much in the northern section; also, what amount of the same remains subject to appropriation or subscription by the State in each of the said sections respectively; and whether the $200,000 set apart for either of the said sec-

[1] Clement's speech. Related to him by Mrs. Menefee.

tions, or the distribution to either, for roads on any part thereof has been expended or subscribed in any other sections, and whether either of said sections has ever received more than its ratable amount, and if so, by what authority was such expenditures or subscription made." His motion was carried. He then moved the following, which was also adopted: "That the committee for courts of justice—composed of Letcher, Marshall, and others—be instructed to inquire into the expedience of providing by law for the exemption of the coal of blacksmiths from execution; and to report by bill or otherwise."

On January 21 the joint committees of the two houses, composed of seven representatives and two senators, Menefee being one of them, that had been appointed to examine into the condition of the Northern Bank in Kentucky, reported that the bank was in good condition and was entitled to the confidence of the people of Kentucky.

On February 20 the House resumed the consideration of the bill to amend the Louisville, Cincinnati and Charleston R. R. Co., and the amendment of Marshall, striking out Lexington and inserting Louisville, to be the terminus of the road. The Frankfort correspondent of the *Lexington Intelligencer,* in the issue for February 10, gave the following account of Menefee's speech on this bill:

> Marshall concluded after candle lighting, and Mr. Menefee addressed the House for an hour. His speech evidenced great reasoning powers. He contended that it was not so much a Louisville and Charleston work, as a Carolina and Kentucky connection. He showed

what were the elements and objects of commerce, and by an able examination of these, deduced the result that more advantage would come to Kentucky, and to the consumers of articles of consumption of a growth beyond her limits, by bringing the road to Lexington, than to Louisville. He contended that the road was to find business, not merely at extreme points, but at every point of its passage. New business would be created, more consumption of articles for foreign use. He believed Carolina's policy on this subject was right, even if she should make the road to Cincinnati, as the gentlemen deemed it to be her design. It ought to go to the Ohio River there. And he predicted and called marked attention to the prophecy, that Louisville would make the branch to the Cumberland Gap, or to the road in that region by her own means and resources, whenever Carolina's means and resources, or those of the Company, were employed in carrying on the branch to Covington.

Mr. Menefee is one of the most talented young men in our country, and I doubt not he is destined, should not death or misfortune thwart the aspirations of a mind of vast power and intellectual wealth, to take a high stand in the councils of that great country in which Carolina and Kentucky are only component parts.

After Menefee's speech the vote on Marshall's amendment was taken, and lost, fifty-three to thirty-nine, Menefee voting in the negative.

Two days later, Menefee presented the following resolution: "That, The use of the Hall of the House of Representatives be tendered to the Wandering Piper this evening." The House granted his resolution and then adjourned. This early Kentucky minstrel performed on the Scotch and Irish bagpipes, and

was a descendant, according to the spirit, of those minstrels of the Middle Ages who wandered from town to town to play for the great and mighty of the earth. The Wandering Piper performed in Lexington before going to Frankfort, and later went to Washington City, where he was cordially received.

Practically every measure that Richard H. Menefee presented to the Kentucky legislature of 1836-37 was passed, excepting his petition for the citizens of Lincoln and Mercer Counties, asking for the new county of Boyle to be created out of parts of their respective counties. This fight for a new county, as has already been stated, had been going on for twenty-five years before he entered the legislature, and he did as much as any other one man to get the new county formed. Boyle County was formed five years later. Besides the bills mentioned in detail, Menefee had many other measures, of minor importance, passed, which it has not been deemed worthy to mention in this book. His term in the Kentucky legislature is without a parallel in the State's history. No man ever fulfilled the expectations of his constituency better than did he.

Speaker John L. Helm delivered his valedictory and adjourned the House, *sine die,* February 23, 1837. The session had lasted nearly fifteen weeks. Menefee returned to Lexington with many of the other representatives and was given a public dinner by the citizens of Lexington on February 25 at Col. John Keiser's Hotel, which was situated at the corner of North Broadway and Short streets. This dinner was to show the appreciation of

the citizens of Lexington and Fayette Counties for the very efficient manner in which the representatives had discharged their duties. The legislature was notified before it adjourned and the members were requested to invite their friends. Colonel Keiser had his best cooks in the kitchen on that day, and an excellent dinner was served. Party spirit was banished and good feeling prevailed. Maj. John Tilford acted as president and he was assisted by the three vice-presidents, Col. Benjamin Taylor, Henry C. Pogue, and John Brand. After the cloth was removed such toasts as the following were responded to and drunk: "The State of Kentucky," "International Improvements," "Our Senator—A. K. Wooley," and "Our Representatives — William Rhodes, Henry Daniels, and Robert Wickliffe, Jr." This toast provoked such applause that the above-named gentlemen were obliged to rise and address the meeting. Other toasts were: "The Citizens of Kentucky," and "The Ladies of Kentucky—Oh beautiful! and rare as beautiful!" Then, "By the Committee on Arrangements to Our Guest, R. H. Menefee," which read as follows: "Proud of him as the County of Montgomery may be as a faithful and honest representative, we are still prouder of him as a talented and native-born son of Kentucky. The fearless eloquence and statesmanlike views which he has displayed in the councils of the State commend at the hands of the people a seat in the councils of the nation." Menefee returned his thanks for this "honorable notice" to the committee in an eloquent speech which was greeted with cheers.

He then responded to the toast—"A general system of public instruction—practicable, because consistent with the theory of our political institutions; its foundations have been laid by the late legislature—the people demand that it should be carried into execution." At this meeting Richard H. Menefee's "congressional boom" was launched. After a few other toasts the meeting adjourned.

If Menefee had been contemplating making a race for Congress, this banquet finally decided him to announce himself, for in the Frankfort *Commonwealth*, of April 19, about three weeks after the banquet, he announced his candidacy to succeed Judge Richard French, as Congressman from the eleventh congressional district. French also announced himself to succeed himself, and the Kentucky newspapers predicted the race between the brilliant young Whig and the distinguished Democrat would be a bitter one.

Richard French, Menefee's opponent for the twenty-fifth Congress, was born in Madison County, in 1792, the year that Kentucky was admitted into the Union. He studied law under the Honorable Samuel Hanson, a distinguished lawyer, and began practicing at Winchester, Kentucky. After practicing law a few years he entered politics and was elected as Clark County's representative to the Kentucky legislature of 1820-1822. He was elected to the twenty-fourth Congress in 1835, and in 1837 announced himself as a candidate for the same office. In 1840, as the Democratic candidate for Governor of Kentucky, he was defeated by Robert P. Letcher.

French died in Kenton County in 1854. He was an able speaker and debater, and a good citizen.

When it was known throughout the eleventh congressional district, that was composed of the counties of Montgomery, Bath, Fleming, Lawrence, Lewis, Morgan, and Greenup, that Menefee and French were the opposing candidates for Congress, the excitement was intense.

In the latter part of May, 1837, the famous American orator, Daniel Webster, accompanied by his family, visited Kentucky. At Louisville, Lexington, Maysville, and Versailles he was given public dinners and a perfect ovation. There is a legend in Kentucky that, at Lexington or Maysville, he heard Menefee deliver a speech and was so delighted with the young Kentuckian that, at the close of the meeting, he took Menefee in his arms and embraced him. I have been unable to verify this legend. Webster probably did take him in his arms on a memorable night in July of the following year when Menefee responded to the toast on Kentucky at the Faneuil Hall banquet, in Boston, given in honor of New Hampshire's mighty son.

One of Menefee's most distinguished supporters for Congressional honors was the famous preacher "Raccoon John Smith," of the Church of the Disciples. His biographer, John A. Williams, tells us "that Smith loved Menefee with almost parental fondness." He was as decided in his political as he was in his religious opinions. Williams gives the most vivid description of the campaign that I have been able to find, and I shall quote it verbatim:

"The political strife of that year was intensely earnest. As the day for the election drew nigh, almost every other interest was forgotten; quiet neighbors waxed warm with disputations; partisan remarks were mingled with their harvest songs, and political wrangling profaned, on Sunday, the very precincts of the sanctuary. The brilliant Menefee, with his boyish face and delicate form, moved like a meteor from one neighborhood barbecue to another, and the mountains sent up their shouts of enthusiasm when he appeared. The voice of the people at length prevailed, and the popular honors rested on the brow of the young statesman."

The old preacher was a staunch Whig, and the position that he took almost rent his church asunder. He finally vindicated himself, however, and in October following the election, his fifteenth child was born and he immediately named him Menefee Smith. The young namesake of the eminent Kentuckian was to suffer death at the age of five years, in a way that was more cruel than the death that Menefee himself suffered. The little fellow was scalded to death and the old preacher carried his grief with him to his grave.

Many stories are told of the campaign between French and Menefee. I have tried to sift them all, and have decided to retain two of them which were related to Mr. LaVega Clements by Menefee's widow, a few years before her death, and one that Maj. O. S. Tenny tells. One day, while this "bushwhacking canvass" was at its highest point, Menefee, in company with a companion, was riding in a

mountainous part of his district, he came to a farm-house. "Ah, we will stop here and see our friends," said Menefee to his companion. "Pshaw, Dick, that's the home of old man Davis and his five sons. They are all Democrats and would as soon think of voting for Satan as a Whig." Menefee, however, insisted on stopping and his companion agreed. Davis invited them to a dinner of corn bread, bacon and coffee, without sugar, and fed their horses. After dinner, Menefee informed Davis that he was Judge French's opponent for Congress. Davis asked him why the Whigs did not put up a man and not a mere boy against French, and proceeded to joke him about his boyish appearance. Menefee then suggested that he and Davis should wrestle, and if he (Menefee) gained the first fall, that Davis should vote for him for Congress. Davis agreed and he and Menefee repaired to the front yard, where Whigism and Democracy locked arms. In a few moments Whigism was astride of Democracy. After having gained one vote so easily Menefee suggested that the five sons of Davis should wrestle with him, with the same agreement to hold. The sons consented and in a few minutes Menefee had won six votes. After having thrown the men of the family, he jokingly suggested to Davis that he never liked to do things by halves, and for him to bring forth the old woman and he would win another vote. Besides gaining six votes, the story also reveals that Menefee was a man physically, as well as mentally, and not a weakling, as the popular conception has it.

Menefee played many tricks on French, but

Judge Tenny, who was long a resident of Mt. Sterling, tells the best one. On one occasion Menefee and French met at a dance. The young Whig captured all the fair partners and French was compelled to sit by and see his opponent win the hearts of the wives and sweethearts of the voters. The old Judge stood it as long as he could, when he left and went to another dance some miles away. One of Menefee's friends advised him of French's action and told him of a "short cut" road to the place that French had started for, which, if he would take, although it was rough, he would arrive at the next dance ahead of his opponent. Menefee immediately left, taking the rough road, and when French arrived, he found Menefee again ahead of him, and swore that he had been led around in a circle and brought back to the place that he had left. His wife was also very angry, and affirmed that if her husband did not beat the "yellow-headed boy for Congress" she would get a divorce. But she saw French defeated and did not carry out her threat.

The best-known story of the campaign is the Grimes bear story. Owen Grimes kept a tavern and was also postmaster at the Olympian Springs in Bath County. His wife was an ardent supporter of Menefee. Grimes had a pet bear. One day, French and Menefee met at the Springs to present their claims for the people's consideration. Menefee led off and French followed. When the Judge had gotten started, Mrs. Grimes called to her husband, "Owen, turn that bear loose!" Owen did not do so. Again she shouted, "Owen, I say turn

that bear loose, and do it quick!" Owen understood that command and complied. The crowd scattered in every direction and left French speaking to the empty air. Madam Grimes then returned to the tavern, where she no doubt prepared an excellent dinner for her hero.

On August 9 the election began and lasted three days. On the second day of the election, Menefee was beating French so badly that it was thought his majority would be upward of 500. The *Lexington Intelligencer* received the following note from a correspondent in Owingsville, dated August 9, 1837: "Thinking that you would like to hear from our Congressional election, I avail myself of a leisure moment to assure you that Mr. Menefee, our Whig candidate, is certainly safe—he must get a majority of from three to five hundred. He made a speech here to-day, or rather expressed his great gratitude to his friends and supporters. Our county candidate, Trumbo, is also elected. His majority will be upwards of 500. Is not this glorious? Yours, ——." He was wrong, however, as Menefee's majority after three days of voting, was 234. The official vote, by counties, was as follows. Fleming, Menefee 1160, French 806; Bath, Menefee 763, French 671; Montgomery, Menefee 744, French 552; Greenup, Menefee 543, French 538, and in the three other counties French polled a majority over Menefee as follows: Lewis, Menefee 393, French 422; Lawrence, Menefee 279, French 500; and in Morgan County French got 415 votes to Menefee's 232. In the district Menefee obtained 4084

votes to French's 3850, giving him a majority of 234

A short time after his election, Menefee, with his wife, came to Lexington, where, on August 24, 1837, his second child was born, and named Richard Jouett Menefee. On the same day that his son was born, Menefee, in company with Hon. James Harlan, left Lexington for Washington, going by the way of Maysville, Kentucky, to serve in the called session of the 25th Congress.

At the August election of 1837, twelve Whigs and only one Democrat were elected as Kentucky's representatives in the National House. Kentucky was then divided into thirteen Congressional districts instead of eleven, as now. Henry Clay and John J. Crittenden were the Senators from Kentucky. Besides Menefee and James Harlan, who was from Harrodsburg and the father of Associate Justice John M. Harlan of the United States Supreme Court, Kentucky had eleven representatives in the lower house of Congress: John Calhoun, John Chambers, William J. Graves, Cilley's slayer; Richard Hawes, John L. Murray, John Pope, William W. Southgate, Joseph R. Underwood, afterward United States Senator, and Menefee's most distinguished colleague from Kentucky; John White, Sherrod Williams, and Edward Rumsey. *The National Intelligencer* for September 2 announced that Menefee had arrived in Washington.

CHAPTER V

IN CONGRESS

On March 4, 1837, Martin Van Buren had succeeded Andrew Jackson as President of the United States. He had taken Jackson's cabinet and announced his intention of carrying out his ideas. He caught the full effect of Jackson's financial policy. The excessive amount of paper money in circulation had encouraged reckless speculation; and the specie circular of 1836 had, by reviving the demand for gold and silver, destroyed nearly all the banks which had no government deposits at their command. "The demand for deposits for distribution among the States caused the ruin of many of the 'pet banks.' They had treated the deposits as capital, to be used in loans to business men, and now had to return them. The sudden calling in of these loans began the Panic of 1837, to which nothing comparable had before been seen in America. Early in May the New York City banks refused to pay gold or silver for their notes, and the New York legislature authorized a suspension of specie payments for one year. Banks in other cities at once suspended."[1]

Credit was accepted by no one, and prices rose all over America. Flour rose from five dollars in 1834 to eleven dollars in 1837, per barrel, and corn went up from fifty-three cents

[1] Johnston's American Politics.

to one dollar and fifteen cents per bushel. There were bread riots in New York City during the months of February and March, 1837. On May 15, President Van Buren, by proclamation, called an extra session of Congress to meet September 4, to consider measures of relief. All through the summer of 1837 the panic continued its course, wrecking banks and ruining business men.[1]

Congress assembled according to Van Buren's proclamation, on Monday, September 4, 1837, and at noon of that day Vice-President Richard M. Johnson of Kentucky called the Senate to order, and Walter S. Franklin, clerk of the 24th Congress, called the House to order. The Democrats had a majority in the Senate, but in the House, although most of the Calhoun Democracy were supporting the administration, the Whigs were strong enough to demand consideration in all measures that might come before the House. Before going into this chapter proper, I desire to say that I am simply writing the history of Richard H. Menefee, and not a history of the Congress proper. The main bibliography used for this chapter is the *Congressional Globe,* which was founded in 1830 by Francis Blair, of Kentucky, in time to catch the eloquence of Menefee. Richard H. Menefee was the youngest member of the 25th Congress. Sargent S. Prentiss of Mississippi was born September 30, 1808, but his seat was contested and the House refused to permit him to take it. He was elected at a new election, however, and took his seat May 30, 1838. Robert M. T. Hunter was born on

[1] Wilson's Division and Reunion (1829-1889).

April 21, 1809. Menefee was the "baby" of the House in years only; in many ways he was the giant of the House. A general description of the personnel of the 25th Congress is found in Mr. C. H. Peck's history of the times.[1]

The personnel of the 25th Congress was reasonably strong and brilliant. The prolonged political contests had directed the ambitions of many able men toward public life, and neither the Senate nor the House has ever contained a greater number of men already distinguished and to obtain distinction than met on the first Monday of September, 1837, to deal with the unprecedented condition of the country and the national finances, that would doubtless have been better had there been less political animosity, ambition and insistence; for such conditions are extremely adverse to the national solution of financial problems. The chief benefit of the political struggles about to be renewed in Congress were the lessons that they were to teach in the future.

A more specific account is found in Joseph D. Shields' biography of S. S. Prentiss.

The old Hall of Representatives was a grand-looking chamber, with its lofty dome, its Speaker's chair beneath the eagle draped in the folds of our flag, its oval shape and its tapered pillars supporting the lofty gallery. Before the young aspirant (Prentiss) sat an array of talent of our country which has rarely, if ever, been equalled. Near him sat the wit, diplomatist, statesman, sage, who reversed the maxim "Jack of all trades," for he seemed to be an "admirable Crichton" and good at all, Ex-President John Quincy Adams. There sat against him the short but heavy-bodied accomplished orator and scholar, Hugh Swinton Legaré

[1] The "Jacksonian Epoch," by C. H. Peck, pp. 356-357.

of South Carolina. On his side was Thomas Corwin, one of the greatest orators of his age. There was the brilliant Menefee of Kentucky, hovering near him was the Harry Percy of the House, Henry A. Wise of Virginia, and his own phlegmatic colleague, R. M. T. Hunter. There sat Cilley of Maine, who also was so soon to fall, another victim to the "code of honor." There was the eloquent Dawson of Georgia, whose prediction about Prentiss I have before given (Dawson predicted great things for Prentiss). There sat Howard of Maryland, the head and front of the opposition to him, and near him sat Bronson of New York, who was almost persuaded to be in his favor. There was Millard Fillmore, *clarum et venerabile nomen;* Evans of Maine; Levi Lincoln and Caleb Cushing of Massachusetts; Sergeant of Pennsylvania and Bell of Tennessee, who, as we have seen, was in this case the "bell-wether of the flock." The colleagues of Prentiss, Goldson, and Word were also able men.

Shields then adds a statement that is as true of Menefee as it is of Prentiss:

> He had before addressed people by the thousand; he had spoken before justices of the peace, judges of the Circuit and Supreme Courts and juries; he had harangued the masses from the hustings; he had spoken to the legislature of his State; but this was the first time that he was to stand before the American people. Through the ear of Congress the nation was his auditor.

The old hall of the House of Representatives was an imposing building, but it was an acoustic failure. Ordinarily the voice of the Representatives reverberated to the dome. Late in the fifties, the new hall was completed and the question as to the final disposition of

the old hall was agitated. Justin S. Morrill of Vermont, the father of the State Colleges, on July 2, 1864, had a bill passed setting aside the old building as the National Statuary Hall. Morrill's act said that each State should have the right to place two statues of her distinguished sons in the Statuary Hall. About twenty States have sent statues. Kentucky has not decided upon her representatives. Henry Clay has been sufficiently honored by Kentucky; Lincoln and Davis have been honored by their adopted States. Why not place statues of Richard H. Menefee, the orator, and Ephraim McDowell, the surgeon, representatives of two great fields of human activity, in the National Statuary Hall, as Kentucky's representatives in the American Valhalla?

The first duty of the House was to elect a Speaker, and it proceeded to do so. The whole number of votes cast was 224; 113 was necessary for a choice. James K. Polk, a Democrat, of Tennessee, received 116 votes, and John Bell, of the same State, received 103; scattering 5. Polk was therefore declared elected and in an appropriate speech returned thanks to the House for the honor conferred upon him. Polk is the only Speaker of the National House that was ever elected President. After the Speaker was elected, the members were qualified by taking the oath prescribed by the Constitution. Mr. Walter S. Franklin of Pennsylvania, clerk of the 24th Congress, was then re-elected clerk of the 25th Congress. The doorkeepers and sergeant-at-arms were then appointed and the House of Representatives of

the 25th Congress was ready to exercise its legislative power.

In his message, Van Buren recommended that the Government should not directly interfere with the awful panic, but permit it to right itself. He recommended the "Sub-Treasury or Independent Treasury plan." The measure was regarded by the Whigs as an endeavor to break down the banks of the country, and while it passed the Senate, it was tabled in the House.

The first mention of Menefee is made on September 11, when the standing committees were announced. Menefee, with Robert B. Cranston of Rhode Island, George H. Dunn of Indiana, Joseph Ridgeway of Ohio, and Samuel T. Sawyer of North Carolina, formed the committee "On Expenditures of the Public Buildings." On this committee Menefee served through the entire Congress, and at the first regular session he was appointed to also serve on the Committee on Patents with Bennett Bicknell of New York, Isaac Fletcher of Vermont, Mathias Morris of Pennsylvania, and Lancelot Phelps of Connecticut.

On September 19 Menefee wrote the following letter to Dr. H. S. Guerrant, of Sharpsburg, Kentucky.

Washington City, Sept. 19, 1837.

Dear Doctor:—

Yours of the 11th was received yesterday and I am greatly obliged to you for the spirit of personal kindness towards me which it manifests. Suffer me to hope that when your more important engagements will allow of it, you will write to me during the session of Congress. It was rather of some surprise to me that you had not received the President's message at the

date of your letter (the 11th). As soon as printed copies could be procured, I despatched it to every post-office in the district. I was apprised of the general anxiety to see what measures of relief the President would recommend to the country. I confess I participated in the general anxiety. You have all doubtless seen the message before this time, and I hazard, I think, but little or nothing to suppose that your expectations were as much disappointed as those of the rest of the nation. Congress was summoned for the first time in peace at an unusual period of the year in anticipation of its regular session, for the consideration of "great and weighty matters." The condition of the country was extraordinary—not for prosperity as it for years before had been, but for a distress which it had scarcely ever before experienced, brought upon it, as admitted by all, by the action of the general government. The eyes of the people turned to Congress for relief. The friends of the administration promised it—well, Congress obeyed the Executive summons and concurred; and is met with a message which admits in the most distinct manner the deep distress of the country, and even the overwhelming catastrophe that has befallen it, yet recommends no manner of relief—immediate or remote—but barely seeks through some further action of Congress to enable him to pay off the office holders and other dependants on the federal treasury, promptly and in specie, denying at the same time all right in Congress to administer relief to the people in any form known to the Constitution. The government is to be detached from the people; and Congress is deliberately instructed to save the spoilsmen sinking under their extravagance and corruption; and commanded to stand off and witness, with folded hands, the perishing of every substantial interest of the people. The message is atrocious.

Very truly yours,

RICHARD H. MENEFEE.

Dr. Guerrant was of Huguenot descent and was born in Buckingham County, Virginia. He was educated at Washington College (now Washington and Lee University) and came to Kentucky about 1835 to practice his profession. He settled near Owingsville and he and Menefee became intimate friends. He was an ardent Whig, and obtained the respect of his fellow-citizens. His son is the distinguished divine, Edward O. Guerrant, D. D.

On September 26, Menefee presented a petition or memorial, the nature of which the *Globe* does not state.

One of the most important measures that was to come before the 25th Congress was the question of the surplus revenue. The law of 1836 gave the surplus to the States, and three "deposits," or gifts as they really were, had been distributed.[1] In 1837 a bill, with Van Buren back of it, to cause this distribution to cease, was passed. On September 27, Menefee made his first speech in Congress on this bill. He was preceded by Daniel Jenifer of Maryland, and both speakers opposed the bill.

MENEFEE'S SPEECH ON THE POSTPONEMENT OF THE FOURTH INSTALMENT[2]

Mr. Speaker: After the protracted discussion which the bill has already undergone, I should refrain from taking the wide range in which gentlemen on both sides have indulged. I should content myself with a consideration of the proposition immediately before them—a proposition, in my opinion, quite suf-

[1] Shepard's "Van Buren."
[2] Speech in *National Intelligencer.*

ficient for one debate. Nor, indeed, am I sure that I should have trespassed on the House at all, had the question been one of exclusive *national* bearing.

But, sir, it concerns, nearly and deeply, the government and the people of *Kentucky:* to a degree rendering it inexcusable in her representatives to witness the passage of this bill, without, at least, protesting against it on behalf of that State. Among the numerous objections to this bill, it may, not without reason, be urged as it has been, that the act of Congress of the 23rd of June, 1836, directing certain money belonging to the United States to be transferred to the several States on their complying with the prescribed terms, bears the character of *a legislative contract*, from the obligations of which this Government cannot rightfully discharge itself by such an interference with its provisions as the bill under consideration proposes. The act carried with it certain propositions to the States, which they accepted, respecting the public money. Its mere custody, if nothing more was intended, undoubtedly involved both expense and responsibility, independently of the express and formal stipulations to restore it when demanded according to the terms of the act. It is not pretended that the States have failed, in the smallest particular, to observe the requisitions of the act, as far as transfers have already been made; nor is their readiness or ability to comply, with respect to the instalment yet due, at all questioned.

It is perfectly competent to a Government to create, in the form of *laws*, contracts binding upon it. The practice often occurs. All our acts of incorporation are instances of this kind of legislation.

If, then, the act of 1836 be, as it is represented, and insisted on, *a contract*—and it is difficult, if not impossible, to distinguish it from a contract—the objection to the bill, for that cause alone, is altogether sufficient. If a contract, it must be fulfilled. The Government cannot escape from the obligations it imposes, except by the consent of the other contracting party—the

States. The violation by Congress of such a contract could not, I know, be redressed by a resort to the judicial tribunals. Yet the imputation of tyranny and perfidy would justly await such a violation: a position which no one supposes an American Congress capable of occupying.

But, sir, I do not rest by opposition to this bill exclusively, or even mainly, on the ground of a supposed violation of contract involved in it. This I deem a narrow view of the matter. I place it on higher and more commanding reasons: *on the true nature and spirit of the act;* not as evidenced by its language or its form, but by the principles in which it was conceived, the ends it aimed at, and the whole context of circumstances which attended its enactment.

What, sir, I ask, are the nature and spirit of that act? It is attempted to be maintained that it was merely intended as a measure of finance; that the public money was to be transferred, for the advantage of the Treasury of the United States, to the State treasuries, there to be held on deposit strictly—not contemplating the use of it by the States for their own benefit, even temporarily. In other words, that the States were, as such, substantially converted, by that act, into so many agents and instruments of the Federal Treasury. Under this pretension, the use of the money, by the States, even for the shortest periods, or to the least extent, was wholly forbidden. For if Congress could authorize the use of it by the States, without interest or equivalent, for an indefinite time, they might, upon the same principle, and with equal propriety, wholly relinquish it to the States; the constitutional power to do which the advocates of this construction deny.

The idea of the general Government collecting its vast revenue, from its innumerable source, all over the Union, with its multitude of collecting officers lining our seaboard, and of receivers of public money scattered over the whole West, and all the expense and machinery belonging to so extended a system, to divide

out amongst the twenty-six States, to be held without use by them, or interest to the Government, for the purpose of being returned when demanded, is utterly inadmissible as a measure of finance purely. But a small advance would be needed under a system like this, to require the revenue, after its collection, to be returned to the individuals from whom collected, to be by them held as agents of the Treasury, and repaid when wanted for the immediate use of Government. Its clumsiness, and utter imbecility, as a system of finance, would justly fix reproach on any nation that should adopt it.

But, sir, the error of this construction is still more manifest, when it is remembered that Congress, in the antecedent part of the same act, formally and minutely provides for the deposit of the Public money in the State banks; another addition to the deformed and unnatural system attempted to be found in that act. As a system of finance, who, with a proper respect for his reputation, will consent to stand forth as its champion? Who will endure the paternity of such a financial monster? Who so reckless of the opinions of the world as publicly, in his place here, to hold fellowship with it? I dismiss this view of the question. Gravely to refute such a construction, would be an act of violence to the wisdom of Congress and the national character.

No, sir, the act of the 23rd of June was no financial expedient, it is more imposing. It is the offspring of considerations tenderly affecting the Federal Constitution and the purity and its administration.

By a course of Federal legislation, whether constitutional or unconstitutional, wise or unwise, is of no moment here, a large revenue had accumulated beyond the wants of the Treasury. Large, however, as this surplus was, it cannot be pretended that its mere custody by the Government was impracticable, or even difficult. Its full competency to this end was never questioned. Yet, from the earliest period of this accu-

mulation, it was universally regarded with an eye not only of distrust and apprehension, but of absolute abhorrence. It was viewed as the dread fountain from which were destined to flow extravagance in the Federal expenditures, augmentation of Executive power, and all else that was hostile to the Constitution and dangerous to public liberty. Nor, sir, was it viewed in any false light. No fear was entertained that was not just; no abhorrence felt that the frightful visage of the evil did not fully warrant. The worst predictions of its pernicious influences fast ripened into fulfillment. Government extravagance, impelled by this surplus, progressed without check, and with the utmost rapidity, to the point not only of profusion, but of profligacy, verging on actual corruption. Executive power, already expanded to its fullest constitutional dimensions, seated on this same surplus, and wielded by a popular hand, wrenched from its coordinate departments every check, and demolished every balance designed for its restraint. Under an abused, if not unconstitutional power of removal from office, the independence of public officers, so necessary to a pure administration, broken down to the basest servility, and the whole corps transformed from servants of the people and officers of the law into an army of mercenaries, obedient to Executive command, no matter what commanding. The Senate—prostrated, utterly. The Judiciary contemned, defied and principles advanced openly by the Executive abolishing every vestige of restraint through that department. Congress—a seducing patronage perpetually playing upon it—the veto lightly and capriciously hurled at it—the practice of withholding bills, insulting and defrauding it—the purse violently wrested from it—the regulation of the currency usurped—its spirit broken—and at last subjugated and outstretched at the feet of the Executive. The people—deceived, despised, most grievously distressed. Their most highly favored measures—the bank bill, the land bill, the currency

bill, successively perishing under the veto, or that other more terrible power. Their currency, in rage, torn asunder by the hand that had snatched it from Congress.

I do not insist, sir, that all these evils, or the most of them even, flowed from the surplus. But I do insist that the tendency of that surplus, whenever and however it operated—and in some form or other it incessantly operated—was pernicious in every aspect, and in the extreme.

Was it, then, in the least surprising, that the statesmen of the United States should have striven to relieve the Government of this surplus? The subject of its disposition accordingly became, as early as 1829, sufficiently important to find a place in the annual message of the President.

As then, the period approaches when the application of revenue to the payment of the public debt will cease, *the disposition of the surplus* will present a subject for the serious consideration of Congress.

That this recommendation may be duly estimated, it is of importance to remember that it was contained in his first message, whilst flaming with ardor to signalize his Administration by a radical reformation of the Government, then supposed to teem with abuses. It was meant as a measure of purification. But it is remarkable, that, notwithstanding the astonishing increase of the surplus subsequently, its disposition never afterwards attracted his attention; its employment for evil having unfortunately entered into the plan of his Administration.

The notice of Congress and the American People having been thus formally and officially drawn to a disposition of the surplus, it forms, up to the present year, a prominent subject of their consideration. In condemning the surplus as a lamentable evil, and in the propriety of some effectual disposition of it, there was but one opinion. The Divisions found to prevail, related only to the mode of disposition. The Message

of 1829 had distinctly announced the mode then most acceptable to the Executive.

To avoid these evils, it appears to me that the most safe, just, and federal disposition which could be made of the surplus revenue, would be its apportionment among the States.

And so fixed was his preference of that to all other modes, that, in his opinion, if that mode "should not be found warranted by the Constitution, it would be expedient to propose to the States an amendment authorizing it." This also occurred in the pure, or comparatively pure, days of his Administration, and, like the subject of disposition itself, from having been a favored measure, soon became an object of his hatred. Other counsels predominated. Plans were formed under the eyes of the President, if not countenanced by him, for its employment in a vast system of military defences. Our whole national confines were to be walled in by fortifications; for the construction, arming, and preservation of which, countless millions would have been required, and for the manning of which an overgrown standing army kept up—alike useless and oppressive to the People, and dangerous to their liberties. Numerous other plans were conceived and pressed forward, as wrong in principle, though not so stupendous—all contemplating a disposition of the surplus by wasting it. To these schemes the Administration at length decidedly inclined, if forced to relinquish the surplus at all.

But, sir, the People of the United States were unwilling to abandon the subject, or even their favorite mode of disposing of the surplus, notwithstanding the abandonment of both by the Executive. They constantly and resolutely urged it. State after State pressed it—New York and Pennsylvania in the lead. Their sentiments were unequivocal for such a disposition of the surplus as would relieve the Federal Government of the dangers which its possession threat-

ened, and, at the same time, render it beneficial to the State, by preserving instead of destroying it.

Its abstraction from the Federal Government was the principle common to all these plans, and kept steadily in view. It looked to a divestment of the surplus as a sanitary measure—a depletion indispensable to the health of the Constitution.

The principle of preserving the surplus for the States first acquired form and consistency in the land bill of Mr. Clay. That measure, from its first conception, was dear to the people and dear to their representatives. It received majorities in Congress seldom, if ever, commanded by so grave a measure; and it might have been reasonably supposed that such majorities, backed by the almost undivided voice of the nation, would have ensured success. Yet, sir, it perished—under the frown of one man. Not by the veto, but that more detestable engine of withholding bills. Its fate was calamitous to the country, and the calamity was aggravated by the general conviction that it was induced by no constitutional objection really existing in the breast of the Executive, but by the relentless hatred he bore the author of that measure, and an insuperable repugnance to do or permit anything tending to advance his fame.

The determination of the country to relieve the Government of this malady did not, however, perish with that bill. It survived and flourished. It presented itself next in the form of the deposit bill of the Senate, in the spring of 1836, proposing to transfer the surplus to the States, upon the execution to the General Government of certificates of deposit bearing an interest, and negotiable by the Secretary of the Treasury. That bill found its way to this House, and finally grew into the act of the 23rd of June, 1836.

This, sir, is a concise view of the history of that act, and of the principles which lie at its foundation. That history and those principles, I think, prove—the debates upon it, the general understanding of the coun-

try, everything that attended its passage, all could characterize such a proceeding, its contemporaneous exposition drawn from every source, manifestly prove—that this transfer of money to the States was but colorably a deposit, having been meant, in fact, as distribution. Upon its constitutionality as an act of distribution, some, I know, expressed doubts; and, for that reason, opposed it. We have, therefore, their authority for asserting that it involved distribution. The serious hues it assumes, between its first Germination in the land bill and its maturity, arose from a desire on the part of its friends to mould it to the views and constitutional opinions of those who favored the principle of distribution, but hesitated upon the mode of effecting it. Sir, that great act experienced much tribulation in struggling into life. The organs of the Executive, in both houses of Congress, denounced it—reviled it, warred against it in every shape, by all means, and without quarter. Their published speeches, now before me, breathe the utmost violence towards it. It is notorious that it experienced the frowns of the Executive; for even in the third generation, it labored, in his eye, under the curse which he had pronounced on its forefather, the land bill. And when, at last, after passing by most striking majorities, it was presented to the Executive, a reluctant signature was wrung from him. He did not, in the language of the Constitution, approve the bill; he barely tolerated its passage—the first and the last instance, during his administration, of his yielding, even in his caprices, to the will of Congress, of the people! He repented signing the bill the moment after he had done it. His spirit of unbridled rule construed it into an act of Executive humiliation; to soothe which he followed the act of signing the bill with an extraordinary annunciation, through the official paper, of his determination to publish to the world the secret necessity which had forced it upon him. His growling and ill-suppressed wrath pursued the measure ever after.

Those who regard this act with such utter abhorrence, as involving a flagrant violation of the Constitution do not, in my opinion, justly discriminate. They maintain that it is unconstitutional to *raise revenue for the mere purpose of distribution*. Granted. But that doctrine has no application to the act in question; it proposed no such thing. The constitutional sin, if any, had been committed long before. The surplus was found in existence, and the act sought to operate upon it. It contemplated no creation of a surplus. It looked to it, isolated from the means by which it had been raised. It formed no system, but terminated with the disposition of the existing surplus, no matter whether rightfully or wrongfully acquired. Congress has express power *"to dispose of the property* belonging to the United States." Does any just distinction exist, in a constitutional way, between *property* and *money?* The late President, in his far famed protest, thought not: and he had high authority, if not strong reason for his opinion. Besides, sir, a deposit of this surplus with the States, without interest, and for an indefinite time, must obviously encounter the full force of the constitutional objections against a direct distribution. The right to distribute the use—the interest—of the surplus, cannot be assumed without yielding the right to distribute the surplus itself. Nor, in principle, can any difference be found between an investment of the surplus in stocks and a distribution of the dividends among the States, and a transfer of the principal surplus to the States without interest. In both cases, the States have its use without equivalent.

But, sir, I forbear to discuss the constitutional question, or even to allude to the rights of the States to the surplus, founded on their interest in the public lands. It is not incumbent on those who oppose the bill under consideration, to maintain the constitutionality of the act of June, 1836. The true question is, was it not an

act of distribution, in fact, right or wrong? For the reasons assigned, I boldly claim that it was.

Nor, sir, in reaching this conclusion, by compelling the letter of the act to yield to its nature and spirit, as manifested by the consideration to which I have referred, am I without authority or precedent in the legislation of Congress. This mode of interpretation, though from its nature seldom authorized, is well established. No government can be wise or just without it. Our tariff laws, especially our protective tariffs, are all thus interpreted. Investments of capital are made in the branches of industry invited into existence under promises of protection, to which the faith of the Government is committed. A sudden repeal or disturbance of such laws, though not forbidden by their letter, would undoubtedly expose the Government to the just imputation of the perfidy and injustice. The great compromise act of 1833 presents a striking illustration. It differs, upon its face, in no respect, from an ordinary act of Congress. Yet, who views it as such, liable to be extended, modified or repealed, at the pleasure of Congress? Who, that values his country's institutions or tranquility, can regard it otherwise than as a great and extraordinary act, sacred beyond just interference by Congress? Still its language imports no contract, no treaty, pledge, or even intimation. Whence, then, its inviolable character? It lies, sir, deeper than its language—in its history. It is not recited in that act that this Confederacy, being convulsed to its centre—a disruption of the Union impending—the national sword delivered over by Congress to a military Executive, who, if patriotic, was revengeful too, and flaming in his hand over a devoted State—the awful epoch opening in our constitutional history of subjugating by arms a sovereign State—the common blood of our ancestors, which had flowed in the revolution in the common cause of freedom, about to flow from the veins of their descendants, after little over half a century, in deadly civil strife—the sword

or an ignominious gallows awaiting much of the genius and flower of the land—it is not recited. I repeat, that, in this portentous exigency, the compromise act came as an angel of peace, silently and invisibly, to compose and hush the trouble elements of the Republic! None of this appears in the act; yet it all existed. It was the offspring of all this. Nor is its nature the less sacred from this silence. Sir, its sublime spirit would have been degraded by the shackles of language. Too real to be embodied, it nevertheless hovers around that act, and sanctifies it.

I maintain, sir, that the act of June, 1836, though certainly not so important, is of a kindred nature to the one referred to; that Congress has no more just right to disturb the one than the other; and that its obligation, in either case, to abstain from such an attempt, is derived from considerations more exalted, if possible, than contract, treaty, or pledge—the duty, I mean, which it owes to the cause of free institutions, which could not fail to incur the deepest reproach by its violation. It is of no moment whether these circumstances are allowed to enter into the construction of the act, or merely to afford reasons operating on the discretion of Congress. The mode in which they shall be permitted to influence our action, I am indifferent upon; their influence—decisive and irresistible—in some mode, is what I contend for.

What action, by the States, ensued the passage of this law? In their reception of their respective proportions of the surplus, none of them either viewed or treated it as a deposit merely; though, for the sake of the appearances which the act had been compelled to assume, they, too, observed the forms prescribed by it. The general policy adopted by them respecting the application of the surplus, was the same. In the West, in particular, as in all new countries, a great demand existed for capital, the want of which repressed their enterprise, and stifled the development of the boundless resources profusely scattered around them. This act

was hailed as measurably supplying that capital. Their Legislatures, previously limited to the means afforded by direct taxation, felt freed from their former restraints, and at once launched into a bold and incautious policy. Popular instruction and internal improvement were the predominating objects of their regard. The whole energy of their legislation was bent towards laying, deep and broad, the foundations of that policy; and the systems devised for the purpose, became intimately connected with every ramification of business. They, in many instances, were connected with the local banks, by an investment of the surplus in capital; through the banks, with the trading and mercantile interests; and ultimately with all classes.

In Kentucky, struggle after struggle had been made, through a series of years, for the establishment of an efficient system of public instruction. Scheme after scheme had been devised; but they all failed for want of money to sustain them. The occasion presented by this act was embraced with the utmost avidity; and upon it now rests a liberal and enlightened system, to which the poorer classes of her citizens have been taught to look as the only inheritance of their children.

Although a system of internal improvements was in operation in Kentucky prior to the act of 1836, yet, from deficiency of means, it was unavoidably partial and inefficient. Under the impulse of that act, it sprang at once into strength and activity, and promised its advantages, at no distant day, in the improvement of rivers, and the construction of roads and canals, throughout every section of that great State.

In these systems, sir, the people of Kentucky not only feel a deep interest, but have embarked in them their affections and the tenderest hopes of their posterity.

The influence of this act on the Western country could never, I am sure, have been duly estimated by

the friends of this bill. Tested by the ordinary progress of nations, the States, at one session of their Legislatures, advanced nearly half a century. They literally bounded forward, as if steam-impelled.

Its operations in other respects, to which too much importance can not, in my opinion, be attached, were peculiarly beneficial. The advantages of the ordinary legislation of Congress were, for the most part, general and remote. Many of the States, from their interior position, and policy of this Government of doubtful justice, were excluded from a participation in the annual expenditures of the millions which they contribute their full share to raise. They were all, or nearly all, absorbed on the seaboard. Although the power of Congress to regulate commerce "with foreign nations" and "among the several States," is granted in the same clause of the Constitution, it had been exercised almost exclusively in reference to commerce with foreign nations. Our whole Atlantic frontier attests it. It is not wonderful, therefore, that discontents should have arisen in the West, from this supposed inequality of legislation. But this act instantly dispelled them. It was hailed with general joy, and was deemed a measure of justice, though slow in its arrival. It came home to them, was embraced, domesticated, and cherished, as it deserved to be, as the future pageant of a means of most beneficent legislation. And, sir, it now stands indissolubly incorporated with their domestic policy, which must perish under its withdrawal, and droop, if not perish, under its suspension.

Taking into view this application of the surplus by the States, and supposing it liable, as contended for, to be recalled, at the pleasure of the Secretary of the Treasury, is it not plain that the act, instead of abridging executive power, as was intended, must greatly augment it? It confers upon the Executive the most dangerous power over the States—no less a power than that of *direct taxation;* for to that a recall of the

surplus must lead, the States having no other expedient to sustain the interests shown thus to rest upon it.

Even admitting then, that Congress may have the right to extort from the States the surplus already paid, and to withhold that now due, the exercise of the right would not be warranted, except on the most urgent and irresistible necessity.

What, sir, is that necessity, as alleged by the President and assumed by this bill? It is, that the Treasury of the United States is unable to sustain itself in its embarrassments without resorting to the fourth instalment intended for the States, amounting to $9,367,214.98; the proportion of which transferable to Kentucky being nearly half a million. I have looked in the spirit of sincere inquiry into the evidences upon which this alleged financial necessity rests, and have looked in vain. The report of the Secretary of the Treasury, submitted to Congress at the opening of the session, though obviously meant to magnify, as far as possible, our financial difficulties, has, I think, utterly failed to establish it. Information derived officially from that Department since, under resolutions of this House, still further weakens the attempt.

Without entering minutely into the condition of the Treasury, it is, in my opinion, plainly demonstrable, that by converting into cash (which can readily be done) the bonds held by the Government on the Pennsylvania Bank of the United States, amounting to $7,946,356.16 besides interest, means may be commanded fully adequate to the wants of the Treasury, without violating the act of 1836.

Without aiming at exact accuracy, the following is believed to present, substantially, the condition of the Treasury:

It is chargeable with—

Balances of appropriations, on the 31st of December 1836, ...		$16,752,283.09
Appropriations for 1837, ...		28,575,837.10
Other appropriations, specific and indefinite, ...		2,724,250.40
October instalment due the States, ..		9,367,214.98
Making, ...		$57,519,585.57
From which deduct—		
Amount paid up to 11th September, 1837, ...	$24,077,031.22	
Postponed appropriations, ...	15,000,000.00	
Estimated receipts for the balance of the year, ...	4,500,000.00	
In banks, the mint, and hands of collecting officers, ..	14,596,311.00	
Making, ...		58,173,342.22
Leaving excess of means of		$ 563,756.65
To which, in case of obstacles in collecting from banks, or other causes of unavailability, &c. add the bonds (readily convertible into cash) held by the Government on the Bank of the United States, payable in four annual instalments, commencing on the 1st of October next, deducting the interest of the navy pension fund, ...		7,204,995.16
Exhibiting a total excess of means of		$ 7,858,751.81

The proposition to withhold this surplus would be more tolerable if it were intended, to prevent the crea-

tion of a new national debt; my aversion to which, if any thing could, might induce me to support it. But it intends no such thing. The President boldly announces to the people of the United States the startling purpose of fixing upon them a new public debt—not in a direct form, but under the insidious disguise of Treasury notes. The employment of these notes is, in the end, more pernicious than any other expedient of finance that could be adopted. Under its cover a public debt steals upon the nation by degrees, imperceptible to the people; and the first signal of approaching danger is, depreciated *Government paper*, and *public credit prostrated*, with impending burdens and taxation in the rear.

The plan of the Administration, then being not only to withhold the fourth instalment, but to lay the foundations of a public debt also, if a deficit in the means of the Treasury should be found actually to exist, why may it not be supplied by an increased issue of Treasury notes? The principle having been assumed, a mere question of amount can be of but secondary consideration.

Sir, if the Treasury were reduced to the greatest conceivable wretchedness, the present times and condition of the country imperatively forbid the measure now proposed. The opening of a new Administration, or perhaps, more properly the beginning of a continuation of the past Administration, finds this nation plunged into universal distress, reaching, indiscriminately, every class, condition, and pursuit of life.

The actual condition of the country has, until very recently, been a subject of much controversy. By one party it has been represented as I have described it. The Administration took the ground as a party measure—that the country was, in fact, in the highest state of prosperity; the official organ taking the lead, by declaring that "there was no pressure which an honest man need fear." The thousand satellites revolving around it, reflecting the light, or darkness, thus im-

parted, united in the strain. Under these siren songs, multitudes of the friends of the Administration, shutting their eyes to what was transpiring around them, and closing their ears to the cries of surrounding misery, remained insensible of the real condition of the country, until themselves fell victims to the distress, the existence of which they were taught to deny. The suspension of specie payments by the banks, the overthrow of the financial system, founded on the deposit banks, and the Proclamation of the President, convening Congress, to consider of "grave and weighty matters," bred some suspicion among the faithful that all was not well; and the Message fully settled the question. The President's manner of unfolding, through the Message, the state of the country, is singular, though probably characteristic. He breaks to the nation, the subjects of its griefs with a parental tenderness, and by degrees. The blunt and frightful truth, it was feared, might shock the sensibilities of a party long habituated to the deafening note of "unexampled prosperity." "Embarrassments in the pecuniary affairs of the country"[1] are first gently hinted at; "the difficulties experienced," shortly after grow into "unexpected exigencies"; and they, again, into "a revulsion." "Destructive consequences" "widespread and calamitous embarrassments," "plunged into distress," and "disastrous derangement," are revealed in rapid and dread succession; and the dismal climax at last terminated in an "overwhelming catastrophe!" His country's misery is recurred to with a mournful frequency; and every touch deepens the picture, and, as the ghost of a nation's murdered prosperity rises up before him, he has hardly resolution to plead, like Macbeth,

> Thou can'st not say I did it; shake not
> Thy gory locks at me.

He confesses "the unpromising truth," and his confession, like those of another class, less enviably ele-

[1] Extract from the Message.

vated, dwells with a melancholy satisfaction upon the most dreadful particulars; and, as in other cases, the fulness of the confession is relied on, in his application for mercy, where he reminds the People that they will "never desert a public functionary laboring for the public good." Of the pecuniary condition of the country then, we have the highest official information.

Nor is its condition in other respects less deplorable. Pillar after pillar, and column after column, of the Federal Constitution, struck down by repeated assaults, and now in fragments at the feet of the Executive; an extravagant and profuse, if not corrupt, administration of the Government; an Indian war prosecuting at enormous expense, with extreme imbecility, and disgracefully to the American arms—all subjects of loud and just complaint by the people. The standard of national morals lowered, under the example of lawlessness set by the Federal Executive, and the influence of a policy which convulsed and upset the regular business of the country, by turning loose a spirit of wild and reckless speculation; riots, mobs, insubordination, and bloodshed, marking almost every day of our recent history. In short, sir, when the condition of the country is such, that the Secretary of the Treasury, enabled to discover no green spot in its affairs not blighted by "the evils occasioned by the waywardness of man," with every appearance of complacency consoles himself with the reflection that the country has not fallen a victim to some great "physical calamity"! When it has come to be a subject of official gratulation that our beloved country is spared us! That no tornado has overswept it! No pestilence depopulated or earthquakes swallowed it! To which, let it be added, that the people are now looking to Congress with an intense and almost morbid anxiety for relief—*speedy and effectual.*

Now, sir, suppose, in the midst of all these troubled and stormy elements, roused by the misdeeds of our own rulers, and these just expectations of relief, that

the government, instead of administering that relief, shall go forth, as this bill proposes, with sword and torch in hand, in quest of that same dreaded—detested—discarded surplus; threatening to tear up by the roots the most cherished systems of the States, by holding out an early abandonment of them for want of means, or the dismal prospect of supporting them by grievous and interminable taxation; and when it is remembered, too, that with the State Governments, taxation is such in fact—direct—and seen and felt in every step of its progress; not like that of the Federal Government, unperceived and unknown by the people, except as announced from time to time in the reports on the finances—can any one doubt, under such circumstances, its disastrous tendency, and utter inexpediency as a financial measure? But it is of no purpose to enlarge on this view of the question.

In representing the effects of this bill, if passed, upon the States, I speak of it as looking to the entire revocation of the act of June, 1836. For, sir, I now warn the States that if that act is suffered to be violated in one jot or tittle, it is lost to them—wholly—and forever. Once divest it of the sacred character which I have ascribed to it, construe it as a mere deposit act, and treat the States as other officers of the Treasury with funds in their possession and it will be infatuation to hope to retain, for any considerable time, the money already received. Their only deliverance lies in the defeat of this bill; for even if the repayment of the amount now with States should not be shortly exacted, the act will be so far shaken by this bill that they cannot wisely or prudently rest any public measures upon it.

Yet, sir, intense as might be their suffering under such an operation, the people might endure it with some appearance of patience, if its object were different. But it is one of a system of measures devised by the Administration, and recommended in the Message, and now in the shape of bills before Congress,

to sustain and relieve the Government, without the least reference to the fate of the people. To justify himself in this selfish and unnatural policy, and to silence the murmurings of a suffering and supplicating people, they are met with the chilling and repulsive information by the President that "they look to the Government for too much," and that the Constitution was framed on "a sounder principle" than to authorize Congress to extend them relief; in other words, that the Government, which they have lately seen prove itself so almighty for the purpose of mischief and distress, is, under this self denying doctrine, utterly imbecile for the purposes of good. Its own relief and preservation alone occupy the mind of the Government. The "grave and weighty matters" which Congress has been convened to consider, thus resolve themselves into measures to discharge in specie the demands of all the office-holders, contractors, and other dependants on the Treasury, from the Chief Magistrate down: being, substantially, an increase of their compensations, to the extent of the premium on specie, now between eight and ten per cent.

I trust, Mr. Speaker—*I know*—that I sympathize from my very heart with the people in their present adversity, and deeply deplore, "more in sorrow than in anger," the folly and madness which inflicted it. I stand ready, by my vote, to alleviate it by every means known to the Constitution. I condemn and sincerely lament the determination of the Government to separate, in the hour of tribulation, its fortunes from those of the people, and, from its secure position on a specie medium, witness without emotion their calamities. But, sir, in the midst of this general gloom there is one ray of consolation. The Government, under the same policy which has brought distress upon the people, is itself fast approaching a point of financial weakness, which, under wise counsels in this House, may ensure a real, substantial and permanent reformation of its abuses. The extravagance and profusion of expendi-

tures which have marked the late years of its Administration, and in greater or less degrees, forced the State Governments into an imitation of its pernicious example, may be effectually arrested. Its retrenching influence has already been manifested in a report of the Secretary of the Treasury, under a resolution of this House, that appropriations of former years, to the amount of fifteen millions of dollars, might be postponed without material injury to the public service. Governments, like individuals, are not sensible of what they can dispense with, until instructed by the hand of adversity. In this respect, the present exigency is peculiarly favorable. Maintain the inviolability of the act of June, 1836, and the fourth instalment may be held up *in terrorem* over the Government. The States will be enlisted on the side of retrenchment and economy, as the only means of securing the benefits of that instalment, and of escaping the load of direct taxation which awaits a recall of the instalments already received; and that recall must ensue at no distant day, if the Government persists in its profusion. I am solemnly convinced that the Federal Government, administered with an eye to direct taxation for its support, would be conducted, in all its constitutional efficiency, upon an annual expenditure of twelve millions and a half of dollars—scarcely half the sum now applied. Its tendency to abridge Executive power—the great bane of the Republic—is no less apparent.

For one, then, sir, I embrace the occasion; and, without respect to the course of others, shall cleave to it resolutely, obstinately, and to the very last. I had no hand in producing the wreck our finances now exhibit. I view it as an existing "result of the disasters of the times," and but seek to convert it into an instrument of good. Left to its own action—unsmitten itself by the hand of misfortune—the Government would never have returned of choice, nor could have been brought back by force, to the simplicity and

economy which lie at the root of our institutions; for no Government, when once fleshed into profusion, is ever satiated, but rushes on, ravening more voraciously every step it advances; of which the history of our own affords trumpet-tongued proofs. In this House all revenue bills must originate. It is the constitutional guardian of the people's money. I wish to make it such in fact. Of late years, the voting of millions at a time, without debate, inquiry, official estimates, or time for deliberations, has been a scene regularly recurring at the close of every session of Congress. This should not be; and I entertain a strong, and, I trust, patriotic anxiety to witness the day, at no distant period, when a demand by the Administration for money shall involve high and substantial responsibility; an event inconceivably important to the purity of the Government.

Considerations like these, if no others existed, would at once decide my opposition to this bill. But I am taxing too heavily the attention you have so flatteringly extended. I take leave, sir, of this wretched expedient.

At the evening session of Friday, October 6, 1837, the House resumed the consideration of the bill reported from the committee of the whole on the proposition "to authorize the issue of Treasury notes"—the Treasury Note Bill. Menefee arose and said it was believed that the nature of the bill was such that it would not affect the currency. But he would ask if the gentlemen who said so had not been rebuked officially for so doing. He went on to show why he thought the notes would form a constituent part of the currency, and declared his objection to the measure, as giving a dangerous power to the President. The bill,

however, to issue $10,000,000 in notes was finally passed.

On October 10 the Merchant's Bonds Bill, which was a "bill extending the time on merchant's bonds," came up. The question pending was, on concurring with the committee in the following amendment: "*And it be further enacted,* That a credit of three to six months shall be allowed on the duty on all merchandise which shall be imported on or before the first day of November next, upon which the duties are payable in cash, and that the bonds used for such duties shall be payable in equal instalments, bearing interest at the rate of six per cent. per annum, and shall be in the form and upon the conditions prescribed by existing laws and by this act." This was adopted and then Menefee moved to add to the third section, the following proviso: "*Provided further,* That all others, in any wise indebted to the United States, except for the public moneys used, shall be entitled to the benefits of this act, on the terms and considerations hereinbefore prescribed." His proviso was adopted. Adams and Dunn offered further amendments which were rejected, and the bill was ordered to be read a third time and was then passed.

On October 14 the clerk read several resolutions of the Senate, authorizing the printing of certain documents relating to the cession of the District of Columbia to the United States and other subjects. Menefee with Duncan and Cushing made some remarks on these resolutions.

On October 16, 1837, the extra session of the 25th Congress adjourned, after having passed acts to cause the distribution of the revenues among the States to cease, to authorize the issue of $10,000,000 in Treasury notes, and to give merchants more time on the revenue bonds.

While in Washington, Menefee boarded at one of the Congressional messes, as was the custom at that day among public men.[1] He boarded at the same mess with Henry Clay, and Clay gave Mrs. Menefee a little pink vase that is still in the Menefee family. After the extra session was over, Menefee returned to Kentucky, where he remained about a month, and then returned to Washington for the regular session of Congress.

On Monday, December 4, 1837, Speaker Polk called the House to order, at noon of that day. Menefee began the regular session as he had begun the extra session, by presenting a petition or memorial.

When Van Buren entered office there was an insurrection in progress against the authority of Great Britain in Lower Canada. Lyon McKenzie had started a sympathetic revolt, and being driven from the country, made good his escape to Buffalo, New York. He surrounded himself with 310 "patriots." The chief of the "patriots" was R. Van Rensselaer, and he, with 150 supernumeraries, seized and fortified Navy Island. The steamboat *Caroline,* owned by William Wells, of Buffalo, was used to carry arms and provisions for the insurgents from the New York shore to the

[1] B. H. Wise's Life of Henry A. Wise.

island. On the night of December 28, 1837, this boat was lying at Fort Schlosser on the Niagara River. There were thirty-three sailors on board. At midnight, between seventy and eighty armed men put out from the Chippeway Coast, in boats, and fell upon the *Caroline's* crew, and killed five of the sailors. The boat was detached from the wharf to which it had been secured, set on fire, and permitted to dash down the Niagara Falls. This outrage created great excitement in the United States.[1] Governor Marcy, of New York, sent State troops to the scene of disturbance, and President Van Buren sent Gen. Winfield Scott with orders to command all United States troops on the island. Navy Island was evacuated by the insurgents on January 13, 1838, and their leaders, after crossing to the American shore, surrendered to the United States District Attorney. Van Buren sent a special message to Congress on January 5 in regard to the attack on the *Caroline,* and on Monday, January 8, 1838, Richard H. Menefee arose and delivered his speech. This speech is his greatest congressional effort. The first expression in American oratory, of Anglo-American brotherhood, is found in this speech.

MENEFEE'S SPEECH ON THE ATTACK ON THE CAROLINE.[2]

Mr. Speaker: Any debate on the present proposition, which was merely to refer the message of the President to the appropriate committees, involving no

[1] Marcy's message to the New York Legislature.
[2] Speech in Niles's *National Register,* January 27, 1838.

consideration of the merits of the subject to which it relates, would, in my opinion, be premature, and calculated to produce injury without the possibility of any corresponding good. It would, I am sure, have been impossible for the house to have listened to the debates which have thus arisen, unfortunately, without at least a portion of the surprise and regret with which they have inspired me.

The attack on the *Caroline*, if made as described, may warrant much of the excitement represented as now prevailing amongst the people of New York, and even justify a deep and general sensation in that quarter. But the liability of transactions of this sort to be perverted and exaggerated on the one hand, whilst the possible circumstances of justification or palliation on the other are suppressed, must admonish us of the hazard of founding either direct legislation or public declarations of opinion by individuals so nearly connected with government as ourselves, upon facts which have so recently occurred, and are so imperfectly ascertained.

Confining ourselves to facts, upon the existence of which there is no dispute, and upon which, of course, an opinion may be now allowed, it is substantially acknowledged by our government, in the message of the President of the 5th inst., his letters to the Executives of New York and Vermont, his proclamation, and in his instructions to the law officers of the United States, that our citizens on the Canada frontier are strongly disposed to violate their neutral obligations to Great Britain, as those obligations are recognized by this government, and that movements of a hostile character were already made by them; that the executive is incapable, under the existing laws, of enforcing these obligations, and therefore appeals to Congress to arm him with the requisite powers. In none of these documents, it will be perceived, was the slightest apprehension expressed of a violation by the subjects of Great Britain of their neutral obligations to us. The

elements of mischief were admitted to be confined exclusively to our people, and every measure of the executive was designed for their repression.

If citizens of the United States have thus violated their neutral obligations, that of itself constitutes, on every principle, an offence complete against Great Britain, for which this nation is responsible. It is of no avail, in ascertaining the existence of the offence on the one hand, or of our national responsibility on the other, that those violations occurred without the instigation or countenance of the government, and even in violation of the positive municipal laws of the United States. As between foreign nations and this ours is answerable if it fail to enforce an observance by its citizens of our national obligations. Any other rule would render neutrality insecure, and the maintenance of peace between contiguous nations difficult if not impracticable, left, as it thus would be, at the mercy of the irritations and collisions unavoidably incident to a frontier. It is national responsibility only, which, by exciting the vigilance of government over unauthorized acts of its citizens, can check and repress this spirit and thereby avert war. Such our position, and our responsibilities, as already acknowledged by the Government.

It must be recollected, sir, that a resort to arms, on account of illegal acts of the citizens, cannot be considered until reparation by his government has been demanded and refused.

It is now represented that the subjects of Great Britain have, likewise, in the case of the *Caroline*, violated their neutral obligations to us, under circumstances of great atrocity. Still, so far as appears, it was, as in the case of our citizens, an illegal and unauthorized act of the subjects of Great Britain. We have no more just right to presume, in the absence of the fullest proof to the contrary, that this proceeding of British subjects was instigated, or in the remotest manner countenanced, by the British authorities, than would

their government, to presume, under like circumstances, that the officially acknowledged aggressions against them by our citizens was the deliberate act of our Government.

It is reasonable to conclude, from the present state of our information, that neutrality has been violated and wrong done by the people of both nations. For the honor of ours, I hope it may ultimately appear that the offence of our people has not been so flagrant as that of the opposite side. Yet the information already communicated by the executive leaves no room to hope that the first aggressions did not proceed from us, and serve as a pretext, though I can hardly suppose a justification, of what succeeded. If we have been most wronged, it is certain that Great Britain has been first wronged.

Now in the midst of this popular ferment, before the governments on either side are implicated, does not every consideration recommend self-possession and wisdom here? The right of individuals, and even nations, to sympathize in the cause, real or imagined, of freedom, is not contested; but it must be exercised in subserviency to justice and law, not at their expense. In an exigency like this, the public have a right to look to Congress for a proper tone of opinion. It must be expected that the lead will be taken, to a great extent, by this house, the proceedings of which (our debates forming a part) will necessarily be regarded with peculiar interest by both nations. It is therefore, I conceive, of the highest consequence that our views, as here publicly expressed, should rise to the magnitude as well as the dignity of the occasion; and that the subject should be placed at once beyond the influence, and, if possible, the suspicion of the influence of passion or precipitation. Not that I imagine there is danger of war with Great Britain; of that, gentlemen may dismiss all apprehensions; for, sir, there will be no war over these border collisions. To imagine such an event, is ridiculous and absurd. A course of in-

temperate discussion here, may, nevertheless, greatly embarrass the two governments, by inflaming still further the public mind, already too highly excited. But it will merely embarrass; for war, I repeat, will not come.

It would be superfluous to enter at large, in the present state of the controversy, into the numerous reasons which pronounce such a war utterly out of the question. It is enough, almost, to remember that the spirit of the age, and the religious and moral as well as political illumination of the world, stand opposed to war, especially between highly civilized Christian nations. The advance of mankind could by nothing be more strikingly illustrated than the prevailing aversion and abhorrence with which war is now regarded, except in the last deplorable extremity, as the only means of securing repose in honorable peace. War is now viewed as but an instrument of peace. In this condition of the world, is it to be credited that the two nations foremost, by universal acknowledgment, in the career of civilization, religion, liberty, and law can except from absolute madness engage in the barbarities of war? Why should they? Is it not admitted, by both, that war is the last dread resort; not to be adopted till every peaceful appeal for justice has failed? Has such failure actually occurred? Has either evinced an intention to deny to the other the fullest justice, be their mutual injuries what they may? Who can, without a blush, suppose the existence of such an intention on our part possible? Does not generosity, then, as well as justice, require us, at the same time, to presume that a similar desire for peace, whilst it demands justice, animates the government of Great Britain?

If any great contested principle of international law or national rights were involved in the existing difficulties between the two powers, such as the right of search on the high seas, or of impressment of seamen, as claimed and exercised by Great Britain prior to the

war of 1812, their repose, and probably their peace might be disturbed now, as then. These were the principles contested by us from the first; and presented a case where peace was neither secured nor honorable, so long as the pretensions of Great Britain under them were tolerated. That war, on our part, was, I never doubted, both justifiable and necessary. That justification and necessity, however, did not rest on a detached aggression on an acknowledged right, but on the assertion by Great Britain, I repeat, of principles, with the maintenance of which she deemed her existence almost to be identified, but which our honor and interests as strongly impelled us not to tolerate; principles which would have authorized her to follow up her aggressions indefinitely, as to repetition and duration. Granting, therefore, the late aggressions, on either side, to have been as atrocious as the ascertained facts will warrant, or as the imagination of the most belligerent there can paint, still there is no contested principle involved. Neither power claims, or ever has claimed, the right to violate, in this manner, the property, or lives, or territory, of the other. Both, on the contrary, now admit, as they always have done, that such violations are wrong, for the reparation of which the respective powers are liable. All the principles which govern the present difficulty are simple and admitted. It is but a question about facts, which, when ascertained and reciprocally presented, are disposed of by uncontested principles common to both powers. Can either then, I demand, without national reproach, for an instant, in such a case, tolerate the idea that a resort to arms is possible? They are holding themselves aloft among the nations of the earth as the patrons and champions of human civilization and liberty throughout the world. The liberal spirit which they have breathed, and are daily breathing, into the institutions of mankind, has placed them already far beyond all others—and side by side—in the noble work of advancing the high destinies of our race.

Extinguish these lights; or turn them to glare on each other in barbarity and blood, instead of shining in co-operation, as heretofore, for the illumination of mankind; and can the vision of any be so confined and imperfect as not to foresee the disasters to which such an event would expose the world; or, at least, all it contains worth preserving—its Christian civilized liberty?

But, sir, I repeat, we shall have no war with Great Britain. Nations under such high responsibilities to mankind, dare not go to war on an occasion like this. They cannot, without a portion of dishonor and disgrace, encounter and breast, as they would by a war, the enlightened and liberal spirit of this age, which their own efforts and example have so largely contributed to produce, and now mainly impel.

Their characters and positions, in other respects, give the amplest assurance that a resort to force is not now to be expected. No two separate nations have, perhaps, ever existed, at any period of time, between whom has prevailed, of what is valuable, so much that is common to both. Language, laws, religion, ancestry, historical renown, and the most intimate relations of commerce and pervading interchange of capital in other forms—all conspire to condemn war between them as peculiarly calamitous and unnatural. It is true, as I have stated, that, notwithstanding all this, war has, in fact, occurred between them. Yet this multitude of kindred principles soon triumphed over temporary hostility, and reunited them, as the necessities of their relative positions ever must, as the high priests of human civilization and freedom. They defy their destiny, when their arms are turned against each other. The cause of human nature suffers under every blow they strike.

Such being the relative positions of the two powers, for the reasons and for the high purposes which I have mentioned, the simple fact that difficulties like the present now exist must strike every observer as to a

high degree extraordinary. Whence, then, these disturbances, whilst every enlightened motive is against them?

It was admitted by the President, almost in terms, before the affair of the *Caroline*, that our citizens, by the violation of their neutral obligations, were endangering the peace of the two nations; and, in effect, that retaliation by the other side might be provoked. The danger was alleged by him to proceed, in the first instance, from our citizens, and the enactment of laws recommended to restrain them; treating throughout as a domestic cause of difficulty to be removed by domestic measures. What, I ask, produced this lawless spirit amongst our people? For in that, and not in the defenceless state of our frontier, or in the seizure of the *Caroline*, lies the true cause of this emergency. Pains, I know, have been taken in this debate, by the friends of the administration, to cast the whole blame upon the people, to the entire exoneration of the government; a course not without a late precedent, from the same quarter, on another subject. This condemnation of the people is scarcely less unjust than the acquittal of the government. These errors of the people, (for such I readily admit them to be) find their palliation, if not justification, in the antecedent and more flagrant wrongs of the government itself. When the head of a government like ours becomes lawless and unjust, upon whom, in the eye of reason, rests the blame, if those who lived under that government, taking shelter under the example, are infected with a similar spirit? Is not the influence natural and unavoidable? Does not the moral condition, in many respects, of our people, mournfully attest that a lawless spirit has found its way into our national councils? To all those whose judgments, and affections, and imaginations, are united as they ought to be, and as I hope mine are, in devotion to their country, it is a source of humiliation and pain to be compelled to arraign their government in a matter so delicate as

the conduct of its relations towards a foreign nation. But, sir, there is a stage in the progress of international controversies when to condemn one's own government, if in the wrong, is not only becoming the citizen, but rises into a solemn duty of patriotism. Not to do so, would be blindly to sanction and follow whithersoever the caprice, ambition or injustice, of weak or wicked rulers might lead. The voice of the citizen exposing and denouncing pernicious and unjust measures towards other nations, should be raised with freedom and constancy, up to the period when the appeal to arms is actually made, or becomes clearly inevitable. Then the patriotic citizen adheres to, and maintains to the utmost, his country, right or wrong. Always a delicate ground, it is peculiarly so from the critical relations now existing between this government and Mexico. Considerations of national pride might even now restrain the expression of sentiments which I most firmly entertain, were not the contending nation, Mexico, whose weakness, from internal dissensions, is so generally conceded that nothing I might say could be construed into undue concession to her power. And, in the recurrence which I shall make to the conduct of our government towards Mexico during the Texas revolt, nothing of unfriendliness or disrespect is intended towards the new republic which has emerged from the revolt. On the contrary, it is the profound wish of my heart that its political institutions may be speedily and firmly consolidated, and that its civil career may be as tranquil and prosperous as its military has been striking and glorious.

Now, sir, I extend my view beyond what has recently transpired on the Canadian frontier, and, in searching for the real causes and authors of this crisis, recognize them in the conduct of our own administration. Them I now here solemnly accuse, and hold, as the country and mankind will, responsible, to the last degree, for every consequence of treasure, or blood,

or fame, to which the present disturbances may lead; as fairly and naturally resulting from its dishonorable and perfidious failure to enforce our neutral and express treaty obligations to Mexico, under similar circumstances of provincial revolt. Whose devotion is headlong enough to deny the shameless supineness, if not positive connivance and instigation, displayed by the administration over the most audacious and reiterated breaches by our citizens of their obligations to that power?

The West and Southwest, from the beginning of the Texas revolt to our recognition of its independence, exhibited, in almost every city and village, the aspect of a national war. Military array in no concealed form, but in all "Pomp and circumstance" of war, was the spectacle of every day. The agents and emissaries of Texas, sensible of the gross impropriety and illegality of raising forces and fitting out military expeditions against a nation with which the United States were at peace, sought, at first, to cover their operations under the pretext of embodying emigrants, whose voluntary expatriation the government was supposed to have had no right to prohibit. But, sir, emboldened by impunity, that pretext, as troublesome, was soon laid aside, and a direct military recruiting for the defence of Texas openly substituted. Bodies of men, with arms, uniforms, and standards, and every quality of organized military force, breathing war and vengeance against a friendly power, were publicly displayed in the heart of our country! Are proofs required? The representatives on this floor from that section of the Union are my witnesses to attest the literal truth of what is here declared.

And how, sir, was all this met by the administration? Instructions were despatched to the law officers of the United States, and perhaps others, announcing the existence of a state of peace between the two nations, and enjoining the enforcement of the obligations on our part which that state as well as

a treaty imposed. But these obligations were not enforced. They were in no instance attempted to be enforced. Yet all this the administration knew, and knew from the beginning; and tolerated it, against, as I understand, the solemn and reiterated remonstrances of Mexico.

Notwithstanding this, sir, charity, aided by a natural, and perhaps just, prepossession in favor of one's own country, might possibly have exculpated the administration of the infamy of unworthy motive, and ascribed to inattention and remissness what, to Mexico, was equivalent in its effects to perfidy and dishonor. But, sir, the recent action of our government towards another power under like circumstances strikes away every remaining hope of reconciling its proceedings towards Mexico with any other supposition than of perfidy and dishonor. What, I demand of the adherents of the administration here, has been its recent action towards Great Britain? A province of hers contiguous to us, as in the case of Mexico, is in a state of revolt. Instructions were issued, enjoining on our law officers and others an enforcement of the neutral obligations of our people, as in the case of Mexico. But the administration does not stop at that point, as in the case of Mexico. A solemn proclamation is published by the President, enjoining on our citizens the sacred observance of neutrality, and warning them against the consequences of disobedience, in addition to what was done when Mexico was concerned. Officers of government are despatched to the scene of the disorders, with special instructions, unknown in the case of Mexico. Not even content with an enforcement of the existing law, (not one clause of which was enforced, or in good faith attempted to be enforced, when Mexico was concerned,) the President, by a pressing message to Congress, entreats an extension of the law to cases not now embraced, in order to coerce our citizens into a more effectual respect for their obligations to Great

Britain; none of which occurred when Mexico was concerned. All which strikingly commendable zeal for maintaining our neutral duties, when Great Britain was concerned, transpired, it will be borne in mind, prior to the affair of the *Caroline*.

Why this prompt and energetic action when Great Britain is concerned, so directly opposite to that when Mexico was concerned? Is not peace as sweet, and are not treaties as sacred in the one case as in the other? Is our measure of justice graduated by the power of the nations to whom we administer it? Do you deny to the weakness of an infant and distracted republic, what you grant, with a haste almost indecent, to the power of a great monarchy? Do you reverse the principles which govern brave and magnanimous nations? True bravery, sir, exalts itself into magnanimity in the intercourse of the powerful with the weak. In proportion to the weakness of Mexico, should have been the punctilious observance of every obligation we owed her. Did the administration avail itself of that very weakness to disregard all its obligations? On the other hand, brave nations are apt to poise themselves when in collision with their equals or superiors in power, and are prone, from fear of imputation of undue concession to power, to a slow and stately port. Such is our posture towards Great Britain, the power of whose arms and the glory of whose name place her in the front rank of the nations of the earth. She is our peer. With her, when the nations exact justice, they must also perform it.

In the late executive proceedings in regard to Great Britain, to which I have referred, I rejoice to recognize a disposition to enforce, in good faith, the national obligations. But how humiliating the contrast between the treatment which the two nations respectively received! What can save the national honor from the just suspicion, both at home and abroad, of the government having done, in regard to Great Britain, from fear, what it perfidiously omitted to do,

from principle, in regard to Mexico? Yet, sir, as no nation ought to be allowed to persist in a course of injustice, I perceive, in looking to the ultimate results of this emergency the elements of remote advantage affecting the national character, more than compensating for any immediate mischief it may occasion. This last precedent of faith and justice will, I trust, obviate, to some extent, the evils of the former precedent of perfidy and injustice. There is nothing dishonorable in doing justice to Great Britain—nothing humiliating. The dishonor and humiliation consist in having withheld it from Mexico. It is better for our youthful nation of free institutions, that an occasion has arisen thus early to reinstate its character by rectifying its policy, than after persisting in error for a series of years, to confess and correct it, perhaps after fruitless and exhausting contests.

Am I not justified then, in maintaining that, had the same promptness and energy been displayed by the government, in behalf of Mexico, whilst her province was in revolt, which it has displayed in behalf of Great Britain, now that a province of hers is in that state, the present difficulties would, in human probability, not have existed? Would not our citizens have been taught to respect the laws and their duty, instead of violating both, under the impunity which like conduct towards Mexico had experienced? Were they not, by the previous passiveness of the government, in substance told that their sympathy (perhaps commendable in itself) might, without impropriety, be exercised by fighting for others the battles of revolt? Did they not thus, in the first instance, thrust themselves into this Canadian revolt, with scarcely a suspicion of illegality?

If, sir, the indignation of mankind could fasten exclusively on the administration, by whom this pernicious policy has been practiced, I should experience the less sensibility; it might sink into quiet infamy, without a tear of mine, and hardly a regret over its

fall. But the national honor is implicated, and, unfortunately, tarnished by the process which has infamized the hands to which it was committed.

My purpose, sir, in rising, was not to discuss *now* the merits of the subject to which the President's message immediately relates; but to offer my opinion of the principles and considerations by which the two powers ought to be, and I think, must be, governed in its adjustment; and to avail myself of the earliest occasion that presented to recall the administration itself, to the unfortunate and disastrous policy which marked our relations with Mexico during the Texas revolt; to the striking contrast it exhibited with our present policy towards Great Britain; to the expectation which our citizens on the frontier naturally entertained, that, as the laws and their obligations were the same, the course of the administration would be the same, by allowing similar impunity to similar violations; to the precipitate change in its policy by the administration, and the attempt it now makes to cast the whole blame on citizens whom it has substantially betrayed into their present proceedings; and to the responsibility of the administration for whatever of outrage has occurred on the Canada frontier, either by or against our people, arising from the fair operation of remote causes, to be found in the pernicious example it had previously set in regard to Mexico.

Sir, neither nations nor individuals can be too early or profoundly penetrated with the sentiment, that inflexible justice to others, under all conceivable circumstances, is their true glory as well as interest. An immediate and temporary advantage may be gained, as experience has shown, by its violation; but experience has equally shown that, sooner or later, in some form or other, through the wise though often inscrutable dispensations of a just Providence, retribution will come, as it ought to. The application of that sentiment to the present conjuncture is simple and easy. For the injuries which are admitted by the

President, to have been done Great Britain by our citizens, we trust, in proper time and form, to afford her justice. The attack on the *Caroline*, on the other hand, presents an occasion for the most scrupulous examination by the government into the facts of that transaction, which, if found as now represented, exhibits an aggression upon us, which Great Britain, in proper time and form, must redress. And that this reciprocal justice will be extended by both powers, who is authorized to entertain the slightest doubt?

I must be allowed, then, to express my utter dissent from any attempt which may be here made, either by the friends or the enemies of the administration, under a state of information admitted to be doubtful and imperfect, on grounds of acknowledged passion, to force the two nations into false positions. Let us display calmness, moderation, and dignity, which are not only consistent with a firm and inflexible purpose to exact the most scrupulous justice, but afford the best proof of a determination to do so. Yet if, after all, against human expectations, the government of Great Britain shall, on proper application, refuse to disavow the late aggression of her subjects, and seasonably redress it, and force the necessity of an appeal to arms, our present power and past history leave on my mind no apprehensions of any result inconsistent with the national glory, and the complete vindication of a just cause. And when that deplorable contingency shall arise, it will be seen who are foremost to vindicate by arms the violated rights and offended honor of the country—those under whose auspices that honor has been stained, by withholding justice from an infant republic, because weak, or those who will tolerate no denial of justice by others, because they deny justice to none.

I am sensible, Mr. Speaker, that I may seem to evince an unreasonable solicitude on this subject. I persuade myself, however, that I entertain a sincere and profound devotion to the preservation of the

national honor, upon principles which will ever ensure, at the hands of other nations, a scrupulous respect for our national rights. If our internal policy is doomed to perpetual vacillation, amidst the clouds of party and faction, I trust that at least the policy which governs our intercourse with foreign nations may, in the sight of all mankind, tower, like the mountain peak, above the region of change or cloud, reposing on its foundation, not of passion, of rash and headlong excitement, with their floods and sand, or short-sighted temporary expediency, but the everlasting rock of undeviating justice.

On January 11, 1838, Menefee spoke on the resolution submitted by Mr. Adams, which was to the effect that Van Buren be requested to communicate to the House a copy and translation of the pamphlet in the Spanish language which was mentioned in the report of the Secretary of State to have been printed and circulated by the late minister from the Republic of Mexico, M. Govostiza, before his departure from this country, and the name of the diplomatic functionary from a foreign government who communicated a copy of said pamphlet to the Secretary of State, was also requested by Adams. Benjamin C. Howard, chairman of the Committee on Foreign Relations, moved to amend that part of it referring to the disclosure of the functionary who gave the Secretary of State a copy of M. Govostiza's letter. Mr. Adams objected to this and spoke at length on his resolution. Mr. Howard refused to withdraw his amendment, and then Mr. Menefee spoke "On our relations with Mexico."

THE MEXICAN SPEECH

Mr. Speaker:

I presume that the chairman of the Committee on Foreign Relations (Mr. Howard) has honored me by his allusion to the conduct of the Government in the maintenance of the neutrality of our citizens toward Mexico in the progress of the Texas revolt.

The frightful forms of libel and detraction, excited in his imagination by the pamphlet of Govostiza, seems to impart in his eye, a sort of *libellous* coloring to all that is here said which denies to the Government a title to canonization for its saintship throughout our Mexican relations. I should not complain of the gentleman for indulging in this manner an imagination morbidly, it strikes me, inflamed, over matters of national scandal. It was innocent enough, though perhaps not exactly amiable. But the gentleman at last ventures, rashly, to deny in cold blood the imputation against the Government, of either culpable remissness, or the least bad faith in the performance of our neutral and treaty obligations to Mexico. But, more rashly still, he ventures to proclaim, in all the solemn forms of political, and, from his position, semi-official flourish, that gentlemen in the opposition who cast such grievous and unmerited reproach upon the Government will, in due time, be required to specify and establish the grounds which justify such accusations. It is to me a source of profound satisfaction, that the Government had thus, in substance, invited public scrutiny into its transactions in that quarter. Now, to me it presented no difficulty whatever to specify or establish more than enough to infamize, utterly, the course of the Administration. My difficulty lay in crediting that any intelligent citizen of the United States, much less the distinguished head of the Committee on Foreign Relations, could be found willing to deny or doubt that the course of the Administration.

both as to omission and commission, had been as we have described it. I even yet hoped that the honorable chairman was, in what he said, disposed to be facetious. Why, sir, when I affirm that our citizens throughout the whole West and Southwest violated flagrantly their obligations of neutrality to Mexico, by affording public succor, in men and arms, to Texas, from the first stage of the revolt to the recognition of its independence, I have but to refer to the Representatives from that section of the Union. That military array, in no concealed form, but in all "the pomp and circumstance" of war, was the spectacle of every day; that avowed military recruiting, by commissioned officers, for the defence of Texas; that the character of *emigrant,* claiming the right of expatriation, first assumed, soon rose to that of *soldier;* that bodies of men with arms, uniforms, and standards, and every quality of organized military force, breathing war and vengeance against a friendly power, were publicly displayed in the heart of this country, in almost every city and village in its confines; that all this was known to the Government from the beginning of the revolt; that it transpired under the immediate observation, and often under the express countenance of the law officers of the Government; that a pretence of boundary was most unreasonably set up by the Government; that a military force was passed into Mexican territory at a most critical period of the revolt; these, sir, and multitudes of others, are my specifications, and the West and Southwest here assembled are my proofs!

Let gentlemen beware: there is more in these Mexican relations than this intemperate justification of them seems to perceive. On a fit occasion they may be developed.

But the chairman says there was no law which the Executive did not enforce; nothing undone which he could do. Does not the act of 1818, for the enforcement of neutral obligations, authorize the suppression

of military expeditions, or preparations here, against a power with whom we are at peace? Look at it. Every provision almost has been violated, and not one clause enforced, or attempted, except in empty form. But suppose the law was not sufficiently comprehensive in its provisions? Why did not the Executive, charged with the conduct of our foreign relations, communicate the fact to Congress, and ask their extension? It is our duty *to compel our citizens* to do justice to other nations. Other nations have a right to demand that we should, and we are nationally responsible if we do not. Have you not lately done so in the case of the Canada revolt? Were not the aggressions of our citizens against Mexico more reiterated in number, and longer persisted in, than they have been against Great Britain? Why, then, distinguish between the two powers? Is it because Mexico was *weak* that you declined this course towards her? Is it because Great Britain is *powerful* that you fly with this haste—almost indecent—to the frontier, find the laws not adequate, and present yourself before Congress for increased authority? This is but justice to Great Britain. Yet why was not the same measure of justice extended to Mexico? How can you, under these circumstances, escape the suspicion of the civilized world, that you have at once yielded to the power of a great monarchy what you denied to an infant and distracted republic? That the *power* of Great Britain has wrung from you a justice which, under your sense of principle and treaty, you would not allow to Mexico? That your measure of justice is graduated by the *power* of the nations to whom you administer it? There is no humiliation or dishonor in doing justice to Great Britain now; the humiliation and dishonor lie in having withheld it from Mexico under like circumstances.

Before this affair is closed, I hope to be able to do myself the honor to afford the honorable chairman specifications quite as exact as he may desire, "accom-

panied with competent proofs," for his due consideration of which, I shall feel at liberty to allow him more than a week, if required—the time lately allowed a foreign Government, *not so powerful as Great Britain*, to determine on a multitude of intricate and complex subjects, involving the issues of peace and war.

In the House on Tuesday, January 30, 1838, on motion of Menefee, 5,000 extra copies of the annual report of the Commissioner of Patents were ordered to be printed.

On February 1 the Mississippi contested election case came up. The motion before the House was one made by Mr. Howard: "*Resolved*, That Sargent S. Prentiss and Thomas J. Word are not members of the 25th Congress." Messrs. Underwood of Kentucky, Cilley of Maine and others spoke for and against the resolution. Menefee replied to James M. Mason of Virginia. Mason was in favor of sending the election back. Menefee replied to him and insisted that Messrs. Prentiss and Word were the duly elected members of the House from Mississippi. On the next day the same motion came up and he obtained the floor, but before proceeding with his remarks moved an adjournment. Mr. Cushman called for the yeas and nays on the motion. The Speaker ordered them and the result was the motion was lost—ninety yeas and one hundred and eighteen nays. Menefee then proceeded with his remarks in reply to Hugh S. Legare of South Carolina. He contended as he had done the day before, that Messrs. Prentiss and Word were constitutionally elected and entitled to their seats in the House of Representatives. Menefee's speech in favor of Pren-

tiss undoubtedly did the Mississippian good, as he was permitted to take his seat three months later. John Bell, of Tennessee, followed Menefee, but he moved an adjournment before proceeding with his remarks and it was carried. The House was willing to be denied the privilege of hearing Bell, but to miss an opportunity to hear the Kentuckian was not to be thought of.

On February 20 the House took up the bill on neutral relations. The bill was approved April 20, 1818, and was an act to amend an act, entitled "An act in addition to the act for the punishment of certain crimes against the United States and to repeal the act therein mentioned." Howard moved an additional section, that the crimes of sedition against the United States should be considered as misdemeanors with a fine of $3,000 and so many years in prison, the number of years to be agreed upon later. The merits of the bill were discussed by Millard Fillmore of New York, John Quincy Adams of Massachusetts, and Menefee of Kentucky. On motion of Adams the bill was ordered to be printed.

SPEECH ON THE NEUTRALITY BILL.[1]

I have regarded this bill with great interest from the moment of its first introduction into the House. From that moment it has undergone the most frequent and fundamental alterations both in its form and substance; and is now in a rapid course of transition from its present to some other shape. Judging from the past, no one can undertake to know, or even to hazard a rational conjecture, in what it is destined to termi-

[1] Speech in *National Intelligencer.*

nate. I have chosen to forbear to express my opinion upon the measure, until it shall have assumed, if it ever shall, some consistency—until it shall be brought to a stand. But the course which the debate seems now to take demands, I think, that some attempt should be made by some one, to infuse into our proceedings on this question, if possible, a different spirit from that which, in my opinion, has thus far characterized them. The general sentiments and opinions which I entertain on the subject of the maintenance of our neutral obligations to other Powers, it is the duty, and as I think, among the most important of the duties of Governments to enforce, to enforce by municipal laws, the observance by their citizens, of the obligation to which the nations to which they belong are subject. This duty, and the importance of its enforcement, are general and applicable to all nations; but in an eminent and peculiar degree applicable to this nation. Our political institutions are, to a marked extent, peculiar, and possess, in theory, anything but the quality of sympathy with those of other nations. Indeed, our political institutions, although they have served in other countries in some instances to excite and sustain the spirit of freedom; yet, from that very effect, have served to arouse the distrust and jealousy, if not to provoke the hate of nations whose political institutions are essentially alien and hostile to our own. We have, therefore, all to lose, and nothing whatever to gain, by a departure, even in the slightest particular, from steady, inflexible, and stern adherence to the principle of *non-intervention* in the internal affairs of other nations. To comprehend justly the principles which should lie at the foundation of any legislation of ours on this subject, it should be borne in mind that the duties and obligations of the *citizen*, in all these respects, are precisely those of the nation of which he is a member, and of which he forms a part. Nations, in their relation to each other, are unities; and their character, when once ascertained—as pacific or bellig-

erent—is imparted to and governs that of the citizen. In the language of Mr. Jefferson, "if one citizen has a right to go to war, of his own authority, every citizen has the same. If every citizen has that right, then the nation (which is composed of all its citizens) has a right to go to war by the authority of its individual citizens. But this is not true, either on the general principles of society, or by our Constitution, which gives that power to Congress alone." "Indeed, nothing could be more obviously absurd than to say that *all the citizens* may be at war and yet the *nation* at peace." With my opinions then on the duties of nations and the corresponding duties of the citizen, I am, of course, prepared to enforce, by municipal law, whatever can be fairly demonstrated to be our duty under the established law of nations.

But, sir, whilst nations have duties to perform, they have also rights to maintain, and should not be less ready to fulfill the one than prompt to vindicate the other. And even in the discharge, by nations, of duties of this sort, they should not be unmindful of the circumstances which surround them while they thus act. Even justice, sir, should, when *nations* administer it, be *reasonably* administered. A just redress of acknowledged wrongs can not be granted, consistently with national honor, if demanded under a menace. Many other instances might and often do exist, where nations, as well as individuals, are required to judge of the propriety of the mode, manner, and time of an act, as well as of the substance of the act.

Now it is to this point that I desire to direct the attention of the House. I wish that the nation should regard her obligations, the act of fulfilling them as others have done. But I am not content to circumscribe my view to those considerations only: I insist that the circumstances of this proposed legislation shall also be regarded. I entertain a strong desire and fixed purpose that this nation shall, so far as any act of mine is concerned, bear itself erect, perfectly erect,

towards all nations, at all times, and towards Great Britain in particular at the present time. Now, sir, it can scarcely be pretended that the bill, as introduced originally, was meant for any other purpose than the repression of the disorders now existing on the Canadian frontier. This bill originated in the recommendation in the President's message early in January, having immediate reference, by name, to these disorders. It is an affair between this nation and Great Britain, to which this legislation is to relate. The measure does not propose, as it should, a general law declaratory of, and designed to enforce our obligations to *all* nations: it is confined to conterminous nations—adjacent nations. In other words, viewing the bill geographically, (for its operation is geographical) it is not conceivable that its provisions can enure to any other nation, on any reasonable contingency, than to Great Britain. It is, in its original form, substantially a bill for the benefit of Great Britain, and would not be unaptly entitled: "A bill for the more effectual maintenance of the royal authority in the British provinces in North America." I repeat that I stand prepared to enforce, to the utmost verge, every duty we owe to other nations, and all nations alike. But this measure, as it proceeds from the hands of the Executive (for it came from the Senate through a committee which must be presumed to have been fully acquainted with his opinions of a measure like this, arising from his special recommendation), not only advanced to the line of our duty, but, by the admission of many of the friends of the Executive in this House not likely to make inconsiderate admissions, greatly transcended that duty. It not only performs duty, but surrenders rights. It is admitted that the universally acknowledged right to trade in contraband is surrendered to Great Britain by this bill—a commercial right of high consideration, and not to be renounced without equivalent. It is further admitted and contended by a strenuous adherent of the Administration, that the bill not only

surrenders this commercial right, but involves a gross and most alarming violation of more provisions than one of the Constitution, meant to secure the citizens from unreasonable seizure and searches, their right to bear arms, the protection of property, and the right of trial by jury.

Now, sir, without inquiring into the provisions of the bill in detail, whether justly exposed to the strictures and even denunciations to their full extent with which the friends of the Administration themselves have visited it, I proceed to state what I rose exclusively to state, the reasons why, in my opinion, the House should not allow itself, in the present conjuncture of affairs, to be influenced by the appeals which the friends of the Administration are incessantly ringing in its ears, for speedy, immediate, instant action on this subject, under the terrors of a rupture with Great Britain. Sir, I feel no dismay. I mean to do justice to Great Britain, but I shall not forget the rights of my own nation, or of its citizens, or my duty to the Constitution, or the dignity of this Republic. I shall endeavor to rise to the summit, and to survey, composed and self-possessed, the whole field which this emergency opens. I will bear in mind that our relations with Mexico are in a highly disturbed state; and I will remember that we have unadjusted difficulties, if not unredressed wrongs, with Great Britain, both of ancient and recent origin. I will not fail to remember, for history will not, how the Administration conducted itself towards the Republic which I have mentioned, on an occasion nearly resembling the present.

I shall not now enter upon the merits of the question, whether, in the maintenance of the national obligations towards Mexico, the Administration vindicated or sullied the honor of the nation. It is referred to for the sole purpose of showing, that if it shall appear that any striking contrast shall be found between our action then, in regard to that Republic, and what is now proposed in regard to Great Britain,

the world and posterity will not fail to observe it, and demand the causes of the discrimination. It is matter of history, that from the foundation of our present Government, the Executive has always felt it incumbent to promulgate, in solemn form, his proclamation, announcing to the citizens their duty, whenever it was probable that, from temporary excitement or otherwise, they were in danger of violating it. The practice began with General Washington in his celebrated proclamation of neutrality with respect to France, on the 22nd of April, 1793. It was followed by another for the suppression of the Pennsylvania insurrection on the 7th of August, 1794; by that of Mr. Jefferson in 1806, in relation to the apprehended movements of Burr on the Southwest; by that of Mr. Monroe, on the 1st of September, 1815, enjoining the most sacred observance of neutrality in the contest between Spain and her South American dependencies; by that of President Jackson, on the 10th of December, 1832, declaring to the people of South Carolina his opinion of the law, and requiring them to return to their allegiance; and finally, sir, by that of Mr. Van Buren, of the 5th of January, 1838, in relation to the very subject which now engages our consideration. Throughout the whole career of the American Executives from the 22nd of April, 1793, to the 5th of January, 1838, the practice has been uniform, and throughout that whole unbroken, except in one instance. A province of the Republic of Mexico was in revolt—rightfully or wrongfully; it was inhabited by immigrants from the United States, who took with them from thence the love of liberty, the national pride, admiration of institutions, common interest in history—all that was worth loving or admiring. They were, for all the purposes of sympathy or feeling, "bone of our bone and flesh of our flesh"; and when they threw off what they at least termed the chains of the oppressor, was anything less to have been expected of the Executive than that a more intense interest should have been felt by

our people in their struggle, and a keener desire should prevail to engage in it, than had ever been before experienced in the United States? In point of fact, all this interest and all this anxiety did exist; not in one section only but throughout the whole confines of the Republic. Yet in the midst of all this, with the ancient and modern and entire practice of his predecessors before him, the Executive folds his arms in composure, and views unmoved the rising, raging and spending of this storm upon the bosom of a contiguous republic. I do not now complain of this: I barely remind you of it. Upon the first appearance of a cloud in an opposite quarter, the ancient and salutory practice of the Executive is resumed, and a proclamation warns us to abstain from interference in the disputes of Great Britain and her subjects, complaining though they were of the yoke of the foreign oppressor, as did Texas, and appealing to freemen for sympathy in a struggle for freedom. In the case of Mexico, the Executive refused to do what had never been refused to any other nation: he *refused* because he was expressly requested by the District Attorney of Kentucky, in 1836, to issue a proclamation. You now propose to do for Great Britain what you have never done for any other nation. You were solemnly appealed to by the District Attorney in New York in November, 1835, for an amendment of the existing laws, to prevent outrages alleged to be in course of preparation against Mexico, but which those laws could not reach. This application, though made just before the convening of Congress, was disregarded by the Executive, and no amendment recommended.

Now you clamorously demand an amendment of the laws, without delay, at once, for the benefit of Great Britain under the same circumstances; an amendment, too, confessedly going much farther than any nation has a right to require; and the patriotism almost questioned of those who are for deliberating calmly, neither courting, nor dreading, nor injuring Great Britain,

but administering to her that justice, and not the *smallest* particle beyond what we should administer to the most insignificant Power. Great Britain has no right to complain if we take our own good time for fulfilling our duties. All she has a right to require is good faith. Under the present emergency, she may expect that whatever is meant to be done should be done with reasonable dispatch. She has no right to expect precipitancy on our part, even in a matter of justice, especially upon so grave a question as the legislative expression of our duty to other powers, under the international law, with a municipal enforcement of it involving high penalties. But if notwithstanding this, Great Britain shall complain, why, sir, I shall listen to her complaints as serenely as I now do to the appeals made for precipitate legislation: I shall believe them ill-founded, and shall disregard them.

But, it is contended that, under the existing laws, the Executive can not authorize the seizure of vessels, etc. designed to provide the Canadian rebels with arms and munitions of war. It is quite probable he has not. But the Secretary of the Treasury, by his order of January last, to the revenue officers on that frontier, *has expressly commanded such seizure*, and the Executive thus, at this instant, in the full fruition and exercise of the very power which it was the chief object of the original bill to confer—he is exercising it not under the laws but *over* them. He is not executing the law, but anticipating your bill: he has *enacted law*. The Executive could not execute a law which he was bound and sworn to execute, on another occasion: he *can transcend all law* on this. The parties concerned are different.

I am not opposed to a proper bill on this subject. I doubt, however, whether the existing law is not entirely efficacious if duly administered; but if it is not, agree upon what our obligations to other Powers are, under our system of non-intervention, and I will, by legislation, advance to their utmost limits. To that

point I will go for all nations—for Mexico. Beyond it I will not go for any nation—not for Great Britain.

I quote the following as an interesting account of a celebrated duel:

On the 24th day of February, 1838, occurred a duel between two members of Congress,[1] which, owing to the prominence of the parties engaged and the sad termination of the affair, created more excitement, perhaps, than has ever been aroused in consequence of a similar catastrophe, in this country, with the single exception of the notable meeting between Burr and Hamilton. Matthew L. Davis, a newspaper correspondent at Washington, wrote a letter to the *New York Courier and Enquirer*, in which he charged that it was in his power to convict a member of the House of Representatives, whose name he did not give, of having accepted a bribe. A motion by Wise to investigate the charge gave rise to a discussion on the floor of the House, in the course of which Hon. Jonathan Cilley, a prominent member of the Democratic side and representative from Maine, urged that it was ill-advised for the House to go into an investigation of the matter on a mere newspaper assertion, and alluded in severe terms to James Watson Webb, the editor of the paper. The result was a communication from Mr. Webb to Cilley, which he placed in the hands of the Hon. William J. Graves, a member of the House from Kentucky. Mr. Cilley declined to receive Webb's note on the ground that he would not be held responsible for the words spoken in his representative capacity, as a member of Congress, but at the same time stated that he meant no disrespect to Mr. Graves and did not decline on account of any personal objection to Mr. Webb as a gentleman. Graves subsequently called upon Wise to consult him in the matter, and was informed by the latter, in response to a ques-

[1] Life of H. A. Wise, by B. H. Wise.

tion from Graves, that he considered Cilley's answer entirely satisfactory. Graves, however, determined that it was proper to secure a written answer from Cilley, and accordingly addressed him a note calling upon him to put in writing what he had previously stated in the interviews between them. Cilley replied by saying that he declined to receive Webb's note because he did not choose to be drawn into any controversy with him, and went on to state that he had neither affirmed nor denied anything in regard to his character, and that he intended by the refusal no disrespect to him, Mr. Graves. Graves was not satisfied with his answer, and addressed a second note to Cilley requesting a categorical answer as to whether he had declined to receive Webb's note on the ground of any personal exception to him as a gentleman or man of honor. To this Cilley replied by denying Graves's right to propound the question contained in his note. Thereupon Graves, who considered that Mr. Cilley had refused in writing a satisfactory answer which he had made verbally, and furthermore that he had impeached the honor of Mr. Webb, for whom as a gentleman Mr. Graves had by bearing his note undertaken to vouch, sent a challenge to Cilley which the latter accepted. Graves had never been intimate with Wise, and when he first called upon Wise to bear the challenge, Wise declined, but yielded when Graves reminded him that on a certain occasion he (Graves) had defended him when he was attacked on the floor of the House during his absence. The preliminary note of inquiry, which was so framed that it forced a duel, and the challenge itself, were drafted by Henry Clay, an intimate friend of Graves, though he did not accompany him to the field. Wise, with the assistance of John J. Crittenden, Senator, and Richard H. Menefee, M. C. from Kentucky, arranged the preliminaries, as seconds to Graves, with George W. Jones, M. C. from Wisconsin, for Cilley, associated with Messrs. Bynum of North Carolina and Duncan of Illinois. Rifles were

named as the weapons with which the duel was to be fought, at a distance of eighty yards, to which Wise objected, as unusual and necessarily fatal; but Mr. Clay, upon being consulted, remarked, "He (Graves) is a Kentuckian and can never back from a rifle." Various pretexts were resorted to by Wise, designed to delay and prevent the meeting which he considered unnecessary, as the affair turned upon a mere punctilio, and the real quarrel, if any, was between Cilley and Webb. These, however, proved futile, and on the afternoon of February 24, the parties met in a field on the Benning's road, near Washington, about a quarter of a mile north of where it intersects with the Marlboro turnpike. A coin was tossed up for the choice of positions, which Wise won and Jones gave the word. Three shots were fired on each side, and at the third exchange Cilley fell mortally wounded, Graves's bullet having passed through the groin and severed the femoral artery.

Wise in a letter concerning the duel, written to Jones, Cilley's second, correcting some newspaper accounts, gives the following description of what occurred on the field, which, though written years afterward, is remarkably accurate as to details and confirmed by contemporary reports as well as by General Jones, to the author in person. "All fairness and every courtesy were observed. The preliminaries were settled without a jar; you won the word, and the choice of position fell to me. You fronted me half way the line of fire, held yourself in position to be equally heard, and delivered the word aloud, distinctly and fairly, as prescribed. My eyes were turned upon Mr. Cilley to see that he observed the terms, and he fired first, nearly about the count 'one,' Graves last, about the word 'two.' Mr. Cilley's ball struck the ground between your position and mine, forty steps from his stand. Graves missed him the first shot. Mr. Cilley was evidently disturbed by losing his shot and firing too quickly. You ran to him, and some-

thing passed which showed Mr. Cilley was excited, and I knew would make no concession without another fire. Then in turn Mr. Graves lost his shot at the second exchange. He had a large coarse hand, no sense of touch fine enough for a hair-trigger, and no experience with firearms. My orders to him therefore, were to hold his rifle cocked, hair-trigger set, according to terms, horizontal; at the word 'fire' to push his gun forward, so as to bring the breech firmly to his shoulder, and then level the sight on the vertical, covering his antagonist's person, and to fire when he raised as high as the hip of his antagonist; and to insure deliberation and to prevent losing his shot, to keep his finger out of the spanner until the instant of pulling his trigger. This he did the first time, and he fired plenty quick enough. But before the second shot, whilst I was forty yards off at my position, Mr. Menefee (he and Crittenden stood on either side of Graves, as Duncan and Bynum did on either side of Cilley), when he put the rifle in Graves's hands, told him he fired too slow the first time, and upon Graves's telling him of my orders, he, Menefee, objected to them prevailed on him to put his finger in the spanner. The consequences were as I had expected. At the word 'fire,' and as he pushed his gun forward, and raised the breech to his shoulder, his gun was discharged not three feet from his toes. With his gun fixed on Cilley, seeing no smoke and feeling no recoil, he was unconscious that his gun was fired, and raised and stood pulling at his trigger, when he received Cilley's fire again about the count 'two.' He still stood pulling at his trigger until the count was out. Thinking he was writhing from a wound, I ran to him and he dropped the breech of his rifle to the ground, blew in the muzzle, and exclaimed, 'Why, this gun is discharged!' He and Menefee at once explained the cause. But he was very much mystified and nothing could have prevented him from demanding another exchange of shots. When you came up, as you did

every time to inquire whether Graves was satisfied, you could receive but one answer, not without some disclaimer; and Graves's awkwardness caused me to give you the notice I did, so much denounced, that after the third fire I would demand a shortening of the distance. By the time of the third exchange of shots, both were well trained, were deliberate, and Graves strictly obeyed my orders. At the count 'two,' a moment before, Mr. Cilley fired, and about an instant after 'two' Graves fired, and made the vertical line shot just above the hip. Thus ended the fight. Both of Cilley's last two shots were very fine; they passed through the fence logs just behind Graves, one at the elevation of the breast, the other a space below, perpendicular to the upper, and at the elevation of the hip. If his coat had been unbuttoned, both balls would have perforated its lapels. His life was saved by his position. The wind blew steadily fresh obliquely against Mr. Cilley's ball. I was sure the aim would be at the centre of Graves's body, and allowing about from four to six inches for the deflection to the left of Cilley and right of Graves, I selected the position I did, though disadvantageous in other respects."

It is well-nigh impossible to conceive at this day the storm of indignation that broke out, at news of the duel and its fatal result. Cilley was not only a prominent, but a popular man in his section, and the further fact that the duel was fought over what was regarded as a mere punctilio, rather than a real cause of difference between the two combatants, tended greatly to aggravate the popular odium which was visited upon the participants. Although Henry Clay had been Graves's chief adviser, and Messrs. Crittenden and Menefee had acted as seconds on the field with Wise, as Messrs. Bynum and Duncan had with Jones as Cilley's seconds, yet Wise and Jones, who had had the arrangement of the details, were looked upon as the main actors in that capacity; and the former espe-

cially, as the bearer of the challenge, which, however, he had neither written nor approved, was fiercely assailed in the press at the time as the instigator of the duel, Colonel Webb, the editor of the *Courier and Enquirer,* also coming in for a full share of censure, as being the proper party to have fought Cilley, assuming there was ground for a difficulty.

An investigation was ordered by the House of Representatives upon the announcement of the duel, two days after its occurrence, to inquire into the circumstances of Mr. Cilley's death, and as to whether there had been any breach of the privileges of the House. A committee of seven members was appointed, who, after an investigation, declared in their report: "It is a breach of the highest constitutional privilege of the House, and of the most sacred rights of the people in the person of their representative, to demand in a hostile manner an explanation of words in debate." They also submitted resolutions for the expulsion of Graves, and censure of Wise and Jones, but after a long debate the whole subject was laid on the table. Popular feeling, however, found vent in the enactment by Congress of the Anti-duelling Act not long after.

Cordial political relations existed at the time between Clay and Wise, and the friends of the former were very anxious lest his part in the affair should be disclosed in the public prints, and mar his chances for the presidency. Several years afterward Wise wrote: "Mr. Clay's friends particularly were very anxious, for obvious reasons, not to involve his name in the affair. Thus, many confidential facts remained unknown on both sides. Mr. Clay himself, it is true, whilst all his friends were trembling lest the part he took in it should be disclosed, boldly came to me and said: 'Sir, it is a nine days' bubble! If they want to know what I did in the matter, tell them to call me before them, and I will tell them!' This excited my admiration at the time, and was effectual to prevent

me from unnecessarily bringing his name before the committee."

For several years succeeding the duel, Wise continued to bear the opprobrium visited upon him,—until early in 1842, during the debate in the House of Representatives, upon the resolution to censure John Quincy Adams, which arose from the presentation by the latter of the Haverhill petition. Adams attacked Wise with great bitterness in regard to his connection with the duel, and declared that he had come into that hall "with his hands dripping with human gore, and a blotch of human blood upon his face," which provoked the latter into replying that "the charge was as base and black a lie as the traitor was base and black who uttered it." Wise, whose relations with Clay were no longer friendly, published the circumstances of the duel in the *Madisonian* and *Intelligencer*, and called on Clay to declare the part which he had taken in it. This the latter admitted, in a letter over his signature, of which full use was made by the New England Democratic press in the ensuing presidential campaign, and it was instrumental in defeating him for that office.

On March 2 the Neutrality Bill was again brought before the House and Menefee spoke at some length in opposition to it, on the ground of its unconstitutionality. He then debated with Legare of South Carolina and Underwood of Kentucky on the merits of the bill.

Monday, March 5, was "resolution day"; the Speaker proceeded to call the States, beginning with Wisconsin Territory. In the call of States Kentucky was called after Tennessee. Graves, Southgate, Hawes, Williams, Chambers, Harlan, White, Calhoun and Underwood introduced resolutions dealing wholly with Kentucky or Kentuckians. Menefee's resolution dealt with a national question, the burn-

ing of the *Caroline:* "*Resolved,* That the President of the United States be and is hereby requested to communicate to the House if not incompatible with the public interest, such information as he may possess relative to the seizure of the steamboat *Caroline* acquired since the date of his last message on that subject; the measures which the government have adopted to obtain from the government of Great Britain an explanation of the seizure; and the ground which the diplomatic representatives of Great Britain here and the provincial authorities of upper Canada, have assumed in relation thereto."

On March 8 the Committee on Patents reported several bills to authorize the Commissioner of the Patent Office to issue certain patents. And on March 10 and 13 the committee reported several other bills authorizing the Commissioner of Patents to grant certain individual patents.

Some time in the latter part of March President Van Buren sent his message to Congress on the state of the country, and Menefee delivered the following speech upon it:

Mr. Speaker:

No one could have been shocked more than myself by the communication to this House, by the President of the United States of the offensive documents to which the resolution of the gentleman from New York (Mr. Hoffman) related. Such a procedure on the part of the Executive undoubtedly demands the instant notice of the House of Representatives; and in the absence of an instant explanation, their marked reprobation. That notice was attracted and explanation demanded by the resolution; but I must suppose all

reprobation to have been averted by the Message which the House has this morning received from the President, in which he states that the communication to the House of the exceptionable documents was not intentional. For myself I am fully satisfied with this explanation; and do not, therefore, require the supplicatory appeals on the part of the friends of the President for an extension to him of the *charity* of the House. I extend to him what is more substantial than charity—justice; and justice simply, in my opinion, is all that is requisite to his defence under such circumstances. This, sir, is but an instance of inattention to duty, or its violation in one of the Executive Departments, by an insubordinate officer, whose powers and duties are assigned by law—the President neither knowing nor participating. The just ground of complaint against the President, in such a case, is the continuance in office of the subordinate after the delinquency is known, rather than the original delinquency itself.

It must be acknowledged, however, that the President of the United States, judged in this instance by his own principles of presidential responsibility, has no right to demand, nor perhaps even a decent pretext for asking, the exoneration which has been thus promptly conceded; and I can not allow to pass, unimproved, an occasion so appropriate for inviting the attention of the House to what those principles are—a task of no difficulty, as it consists merely in a reference to a document of no great antiquity, in which they are embodied in the most authentic form. On the 17th of April, 1834, sir, the then President of the United States, whose principles and opinions are, by adoption, those of the present incumbent, promulgated to the nation a paper among the most celebrated in its history: I mean his "solemn protest," of that date, addressed to the Senate of the United States. In that remarkable state paper, the origin and history of which

it is now useless to review, are expressed fully the principles of that period, as entertained by that party, in regard to Executive responsibility for the conduct of subordinate officers. Nor was that paper a mere abstract declaration of principles. It was, on the contrary, a practical display of principles, in upholding a high executive act: the highest indeed, and the most high-handed executive act that disfigures our history. What are those principles? That the whole "Executive power is vested in the President"; that "he is responsible for its exercise"; that all subordinate officers are but agents and instruments to "aid him in the performance of his duties"; that the power of removal and appointment "is an original Executive power"; and that, for the conduct of all Executive officers, the "President is responsible"—all in turn being "responsible to him."

Now, sir, in a land of laws under a limited Constitution, these must be admitted to be extraordinary doctrines, which it is not my present purpose to expose, but merely, by referring to them, to show what they are.

Executive unity was claimed, with all the qualities of individuality; and all the thousands of Executive officers in the civil, military, and naval service, in peace and in war, at home and abroad, on sea and land, in all their ramifications of Government, were but bones and sinews, and muscles and nerves, of that vast constitutional unit of which they were parts—the President the whole. They were the eyes by which he saw, the ears by which he heard, the nerves by which he felt, and the bones, sinews, and muscles by which he moved forward and, sir, by which he struck. The President as the sensorium, directing all, moving all, responsible for all.

This was the doctrine maintained when an attempt was made to hold a high Executive officer (the Secretary of the Treasury) responsible to the law, in a most

critical period of our public affairs. The President interposed himself as the whole, undivided, indivisible Executive, responsible for the conduct of all his aids in the performance of his duties. He demanded to be held responsible for their delinquencies. In the career which that remarkable man was then running, he sought, with avidity, the responsibility of atoning for all the sins, if but allowed the pleasure of wielding all the power of the whole Executive Department.

Yet now the President who represents these principles, and is committed to the execution of them, claims of the House exoneration from responsibility for an acknowledged delinquency of the head of an Executive Department; and of the same Department.

It is well, I think, sir, to revert occasionally to the doctrines of yesterday; it inspires circumspection in the actors of to-morrow. In the present instance, there seems to be a striking propriety in drawing, though rapidly, across the vision of the President a picture of the past. It may serve to convince him that it is given to but a few to demolish a free Constitution and erect out of its strewn fragments an Executive stronghold so stupendous as that erected, in practice, by his predecessor.

Sir, without expressing any opinion respecting the Secretary of the Treasury or others, I wholly exculpate the President, and do not, in a case like this, choose to withhold a public expression of the gratification which his late message has afforded. I recognize in that act, with profound satisfaction, the prompt performance of what was due, in my opinion, to the private citizen, to the House of Representatives, and to a Chief Magistrate of the United States.

On April 9 Representative Homer introduced the following resolution (in substance), that the business of the country was in a dam-

aged condition, and considering that a part of the banks of the country have expressed a desire to resume specie payments, it is the duty of the Government to aid such banks in regaining the public confidence. This resolution produced great excitement in the House.

On April 16, this resolution being under discussion, Menefee rose and said that he merely wanted to make one single remark. It was simply this—at this point a gentleman rose and objected. Menefee then moved a suspension of the rule to enable him to make his remark. Luther C. Peck, of New York, called for the yeas and nays. They were ordered and resulted, yeas 85, nays 71. This was not the required two-thirds, but the motion was decided in the negative.

On April 20, Menefee, on leave, submitted two resolutions, which were agreed to. The first one was that the Committee on Revolutionary Pensions be instructed to inquire into the expediency of granting a pension to an old Revolutionary captain of Fleming County, Kentucky. The second one was that the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Poplar Flat in Lewis County to Mount Carmel in Fleming County, Kentucky. Thus was Menefee looking out for the interests of Kentuckians and Kentucky.

On April 23, 28 and 30, Menefee made his speech on the Graves-Cilley duel reports. He made it in three parts and it was the longest speech that he ever delivered.

MENEFEE'S SPEECH ON THE ANTI-DUELING LAW[1]

Mr. Speaker:

I am certainly, as every member must be, apprized of the general condition of the finances, and of the particular exigencies of the Treasury at this time; but I am not prepared for the annunciation just made by the Chairman of the Committee of Ways and Means.

He tells us that there is no time for trial; to enter upon which would be wholly incompatible with a proper despatch of the public business. No time for trial! Sir, when did the gentleman make that discovery? Was not the state of the public business and of the Treasury fully known, all along, to the gentleman who originated this inquiry, and by whom it has been pressed, the chairman himself amongst them? No one will doubt it. All, therefore, who contributed to set this inquiry on foot *intended*, I am justified in pronouncing, that it should thus conflict with the discharge by this House of other public duties; for they foresaw—must have foreseen—from the first, the direction which it was eventually to take; which was formal trials, separately, before the House—with accusers confronting the accused, and witnesses face to face with parties—of each member against whom any accusation should be made or punishment aimed. Indeed, raising a committee, of itself, implied such final action; for the office of a committee is but preliminary, preparatory to the action of the House, and its acts are nugatory except as conducting to such ulterior action. All looked to the Committee as the means, the end of which was the action of the House. This course of proceeding, nevertheless, presented, at that time, no obstacle.

Has anything intervened since this inquiry was thus instituted, disclosing the impracticability of its further prosecution? Are we to understand, from the position

[1] Speech in *Congressional Globe*

which the gentleman holds, that in what he has just uttered are presented the wishes of the Administration and the intention of its friends here, respecting this subject, namely to urge it to the point of a report, involving, to the deepest degree, the characters of distinguished gentlemen of the opposition, members of the House, and suspending over them resolutions of censure and expulsion, and then to arrest the proceedings altogether? In other words, to raise a committee, and employ it for two months in preparing *accusations* and elaborating arguments against gentlemen, with a view to promulgation, and now actually promulgated all over the Republic; and then, by instantly arresting the proceedings, to deprive the accused of the opportunity of vindication in the regular course of investigation and trial!

No time! Sir, they have found time, the amplest time, to accuse, to criminate; have they not time to hear and try? They can, without the slightest prejudice to the public interest, inculpate; have they no time to hear evidence in defence and exculpation? Is there time for calumny; none for truth?

I admit, sir, that a disposition of these proceedings in the only justifiable mode—*after full opportunity of defence*—will conflict with the just demands of the public interest. Their prosecution up to this point has already produced such conflict. But this does not at all prove that they should be arrested now, having already gone so far; but it may prove that they should never have been instituted. As a question of privilege, this excludes the consideration of all other business, no matter how urgent. The Treasury, now scarcely sustaining itself, may soon, for want of supplies, close against the public creditors, to the infinite prejudice of the public credit. Other alarming embarrassments may overtake the Government. Yet, sir, should such results appear, they will be ascribable altogether, in their fullest measure of responsibility, *to the friends of the administration themselves,* with whom these pro-

ceedings originated. I desire to enforce upon the House and the country the truth, which no gentleman here will venture to contradict, that this measure, in its commencement, progress, and consequences, is a measure of the friends of the Administration, designed, at the hazard of great public injury, to attain objects to which I shall hereafter advert.

Why, sir, what is the nature of the proceeding in which the House now finds itself involved! For fifty years the Government has existed under the present Constitution; in the lapse of which, the nation has passed through all the vicissitudes of peace and war, of prosperity and adversity, of tranquility and excitement, and all else, save civil war (and that it has scarcely escaped), to which republics are exposed. Yet our history is without a precedent for this proceeding. It is new, wholly new. It presents an epoch in that history certainly an epoch in the history of this House? What is it?

On the 26th of February last, sir, the death of the Hon. Jonathan Cilley, a member from the State of Maine, was announced to the House by one of his colleagues (Mr. Fairfield), and the customary funeral honors awarded. For this there was precedent. Two days afterwards, however, that same colleague introduced resolutions proposing an investigation into the cause which led to the death, and the circumstances attending it. For this there was no precedent. Here, sir, the extraordinary features of the proceeding commenced.

The gentleman from Maine and others now associated with him maintain that the extraordinary nature of the event warranted and demanded such an extraordinary investigation. Sir, extraordinary in what? It involved a duel between members of the House of Representatives. Well, suppose it did. How many such duels had previously occurred, publicly and notoriously? Need I, sir, enumerate the instances in which gentlemen, now members of this House, par-

ticipated? It is in vain to pretend that any solid distinction exists between those instances and the present, that death ensued from the latter. The offence, so far as this House is authorized to recognize it, consists in the challenge, its acceptance, and the combat. The result is wholly immaterial.

But, sir, if the proceeding itself was extraordinary, its form was still more so. It was a *general inquiry*. It pointed to nothing particularly. Its scope was not announced. It was believed by many who supported the resolutions, that they were designed merely to exhibit the lamentable event to which they related in such a light as to insure the enactment by Congress of some law, or the adoption of this House of some rule, calculated *to suppress the practice*, out of which it originated. The gentleman from Massachusetts (Mr. Adams) has clearly signified to the House that this main purpose in supporting the inquiry did not extend beyond such measures; and that it could in no other aspect have commanded his support. Other gentlemen have declared the same sentiments. Such, I am warranted in saying, were the sentiments of the House when adopting the resolutions.

It is nevertheless now insisted by the mover of the resolutions (Mr. Fairfield) and others, that such was no part of what was meditated; that they looked to that case only, and not to future cases; that their object was the punishment of offenders; and that they aimed at members of this House. The committee have manifestly proceeded with the same view; and, as appears from the range of their investigation and the report they have offered, having supposed their powers plenary to that end, both as to matters and persons, have acted up to that supposition. The report which presents the results of their operations is now submitted to the House, and the proposition immediately before us is *the printing* of this report, and the postponement of its consideration for two weeks.

This proposition, sir, is resisted. Amongst others, I resist it. I admit, at the same time, that the course proposed is the customary course, not to be deviated from without strong reason. Such reason, however, does, in my opinion, exist. If it cannot be shown to exist, I am quite willing that the customary course shall be adhered to, and the proposition prevail. On what grounds, then, sir, is the proposition resisted?

The gentleman from Virginia (Mr. Robertson) maintains that the action of the committee *is wholly irregular and unauthorized;* that they had no power to extend their investigations as they have done, or to report what they have reported. Such, too, is my opinion. Should this view be just it is plain that the report should not be printed, or in any form, receive the sanction or countenance of the House; for if it be printed, it must be for the purpose of ulterior use. If it cannot, from its obvious irregularity and defects, be used in any event, to print it would be nugatory. It would be worse; it would operate as an implied sanction by the House of the irregularity and defects to which I have referred. To prove, therefore, that the whole proceeding of the committee was irregular and destitute of authority from the House, is to prove that the report ought not to be printed. This I propose to prove.

A *committee* of the House of Representatives *have preferred formal accusations against three members of this House for high delinquencies*, and have accompanied these accusations with elaborate arguments and a display of proofs, closing with resolutions for the expulsion of one and the censure of others. Had the committee the right or power to prefer such accusations, is the true inquiry. It is nakedly a question of power in the committee.

Is it no inconsiderable matter, sir, with a citizen, especially one occupying the station of a representative of the people, to have an accusation framed against him, and promulgated amongst his countrymen? By

a bare accusation, his reputation, which is a portion, and the best portion, of all that belongs to him, is not only exposed to injury, but oftentimes to absolute destruction. It connects him in the minds of men with an offence. A few may be philosophical or just enough to suspend their judgments, and remain unaffected even in their feelings, until evidence and defence shall have been heard. But, sir, none regard the accused in a more favorable light because accused. Men's minds are so organized that they turn away, not only from what is disagreeable, but from the idea with which it is associated. This, however, is but the private view of the mischiefs of an accusation. I rest it on higher reasons of a public nature.

The accusing power in a State, sir, is a great power. It is liable, by abuse, to administer to the worst tyranny. In most free countries, England and the United States especially, the greatest circumspection has, for that reason, been observed in deposing this formidable power. It may be affirmed of both these enlightened nations, that the limitations and restraints which they have imposed on this power in the institution of the grand jury, class justly among the firmest and strongest pillars of civil liberty. I will not trace the history of this institution, nor expose, at length, the deep policy on which in my opinion, it reposes, nor review the mass of blessing it has conferred, and of misery and oppression it has averted, in its progress. This must be fresh in the memory of all who have studied the rise of modern freedom, and the instruments by which it has advanced, and maintained itself.

It is true, sir, that a private individual may impute, charge an offence. Proceedings may be adopted against the supposed offender, in the form of warrant and arrest. But this does not constitute in strictness an accusation, which can be made only through a regular tribunal—the grand jury—the sanction of which is interposed as a condition to the accusation. The protection which is thus afforded to liberty, results

necessarily from the composition of that body, without adverting to other causes.

I trust, however, that, in the United States, an argument is not required, at this advanced period of its institutions, to establish the proposition that the accusing power is of vast magnitude, that it should be jealously circumscribed and most vigilantly guarded; that the institution of the grand jury is the only instrument known, which presents adequate guarantees against the abuse of the power to the ends of tyranny and oppression; and that not only that institution itself, where it operates, but all its analogies where it does not operate, should be anxiously cherished as portions of the armor of freedom.

So far, sir, as the House of Representatives of the United States assumes the power of proceeding, criminally, by its separate action, against its own members, it is manifest that it cannot employ a grand jury as the organ of accusation, no matter how faint or deep the delinquency. There is plainly no adaptation. If the accusing power, therefore, is, in such cases, limited at all, it must be by other means. Do such means exist? Is there no safeguard against irresponsible and oppressive accusation, *analogous* to that afforded by the grand jury? Are the representatives of the people exposed, to the extent of the criminal jurisdiction of the House, to all the mischiefs which the Constitutions of the United States and of every State in the Union have sought so sedulously to avert from the private citizens by the employment of the grand jury? I maintain that an analogous safeguard has been provided by the House, which, if fairly exerted, is ample.

It consists, sir, in the law of Parliament and of this House, that no member shall be proceeded against, in such cases, for an alleged offence, without a *direct charge* against him, by name, before the House, in writing, *under the sanction and authority of the House expressly given;* and this, too, usually in a form authorizing the members to be heard in exculpation *in*

advance of any action of the House tending to an accusation. This is deducible, clearly, from the established usage of Parliament, fortified by a series of precedents in the House and in the Senate, and from the rules of the House.

The effect of this provision for the protection of members is, by requiring *the imputation* to be directly announced to the House itself in the first instance, to enable the House to consider the imputation, and determine for itself whether it will authorize an *accusation* to be instituted; in other words, to bring the House to a preliminary trial, in which the member is entitled to be heard, not in his defence, for no accusation exists, but to show, if he can, *that he ought not to be accused.*

The point, sir, from which, in the absence of the security which I have stated, pernicious accusations might be most effectively aimed at members, is through committees. Being part of the organization of the House, the subjects embraced by their sphere of duty are co-extensive with the powers of the House, and nearly with the transactions of life. It would be against uniform experience that the committee if armed with an accusing power, should not, in so wide a range, seize some occasion to connect the names of members become offensive by their opposition, or formidable by their talents, with some delinquency, or abuse, or crime, and present them to their countrymen in the light of *accused culprits*, with the view to the destruction of their influence. Such is the tendency of party everywhere. The principles on which committees of this House are composed are notorious; they relate, sir, as you know, chiefly, if not altogether, to the distribution of party honors, or the advancement of party ends. As, therefore, the greatest danger was to be apprehended from committees, so against them protection has been most cautiously extended by the laws of the House.

Accordingly, sir, it is expressly provided in Jefferson's compilation of Parliamentary law, (adopted by our rules as the law of the House) that

"When a committee is charged with an inquiry, if *a member* prove to be involved, they *cannot proceed against him,* but must make a *special report* to the House: whereupon, the member *is heard* in his place, or at the bar, or a *special authority* is given to the committee to inquire concerning him."

Sir, can anything be more explicit, directly applicable, or decisive than this? Here the committee was "charged with an inquiry," and "a member proved to be involved." This no one contests. What then was the duty, the simple duty, of the committee in that contingency? To "make a special report," unquestionably. But they did *not* make such a report. "They cannot proceed against" a member. Did they pause, much less stop short? No, sir; but *did* proceed against him to the extreme point of resolutions of expulsion! The member was entitled to be "heard in his place at the bar." He was *not* heard. "A special authority" was to have been given to the committee to inquire concerning him. Yet it was *not* given; never applied for! Is this, sir, in conformity to the law stated! No man of understanding, I think, can suppose so. It is the exact opposite of the law in every essential particular; and that, I had imagined until now, involved a violation of law.

Sir, this law has not been answered; and it cannot be answered.

I shall not undertake to account for this extraordinary deportment of the committee. That they have transcended their powers, in a form disreputable to the House, and flagrantly injurious and unjust to individuals, is plain. The explanation most compatible with their honor, in my opinion, is ignorance of the extent of their powers and duties, and of the right of the House and its members. To suppose them advised

of the foregoing law limiting those powers and duties, and defining those rights, is to pronounce that they have wilfully trampled it under foot, for purposes which neither the House nor the public will be at a loss to discover. Inadvertance on the one hand, and deliberate outrage on the other, lie before them. I leave them to their choice.

It is apparent, however, I think, sir, that no matter by what influence, sinister or upright, the committee were impelled, they had no knowledge of the law which has been referred to. Indeed, one of the committee, the gentleman from Georgia (Mr. Grantland,) has admitted, very cordially, that he was not informed of the existence of such a law; that he had no suspicion that the circumstances of a member being involved could operate an abridgement of the powers of the committee; that they were persuaded from the beginning on the supposition that those powers were plenary; and complain that those who now urge this law did not state it before the committee proceeded to act. What that gentleman thus admits, with respect to himself, was doubtless true of his associates of the majority, who, I regret, have not displayed equal candor; it might have spared the House much debate. That the law in question was not pressed at the time, is readily explained by reflecting that no one had a right to assume, in advance, that the committee would violate it.

The committee notwithstanding, still persist in urging their report upon the House, by laboring *to reconcile* their action with the law now that it is known; not that they acted in reference to the law, but conformed to it by accidental coincidence! By what arguments, sir, is this newly conceived pretence sought to be maintained?

It is contended that the committee were *"specially authorized"* by the House to proceed against the members whom they have accused, *by the resolutions of 28th of February*, by which the committee were raised. Look, sir, at these resolutions. What are they?

"*Resolved,* That a committee, consisting of seven members, be appointed to investigate the cause which led to the death of the Honorable Jonathan Cilley, late a member of this House, and the circumstances connected therewith; and, further, to inquire whether there has been, in the case alluded to, a breach of the privileges of this House.

"*Resolved,* That the said committee be instructed to inquire into the means more effectually to suppress the practice of duelling, and report a bill for that purpose at as early a period as may be practicable."

Where, sir, in these resolutions, is found a *special authority* to proceed *against members*, or a *special* authority of any kind? They warrant, I admit, an inquiry into a supposed *breach of the privileges of the House;* but, in a form no more *special* than in cases of inquiry into any other subject. In all, *the subject* of inquiry is stated, as in this; but stated *generally*, as in this. Here, no individual is named, no offence charged, either in respect to members or others. Members may have been involved; they may not. This, like any other subject of investigation, may have embraced the transactions of members; it may not. Either supposition is perfectly consistent with the terms of the resolutions. Had the inquiry been into supposed abuses in the Indian affairs of the public lands, instead of breach of privilege, the authority to the committee would have been precisely the same. The *subject* of investigation would have been *specific;* all else general. Yet, who would risk his character for intelligence, by maintaining in his place that, under a general inquiry of the kind, the delinquencies, real or fabricated, of members of this House, could without further authority, be investigated, and those members proceeded against, accused, and presented to the nation, by the report of a committee, as culprits unworthy of honorable association, and meriting instant expulsion from their seats? In such a case it is manifest that the House must be immediately *notified* of the

implication of members, by a special report, that the House itself might take action, either in arresting the investigation, or *specially authorizing* the committee to proceed. Well, sir, what distinguishes such an inquiry from the present? In both the subject of inquiry is stated—abuses in the one, breach of privilege in the other; but nothing special in either. Neither supposed the implication of members. Both are essentially general.

It is gravely argued, however, by gentlemen, that no matter what the resolutions *may express,* the House *well knew* the facts of the transaction to which the inquiry related, and, of course, that members were involved; that they were notorious! If such an argument merited a serious refutation, it would, I think, be sufficient to ask, why, if all was known and notorious, institute an inquiry at all? Why not proceed at once upon this knowledge? If the House be justified in assuming the facts for one purpose, it certainly may be for all. Why not instantly expel?

I concede, sir, that the public rumor and notoriety of facts are quite sufficient for many purposes. In the language of the parliamentary law, "*common fame* is a good ground for *the House* to proceed by inquiry, and even to accusation." The House, acting on the common fame of the event, might, undoubtedly, have directly instituted proceedings against such members as that common fame may have indicated as criminally connected with it. The mover of these resolutions acting upon the same authority, would as clearly have been warranted in exhibiting appropriate charges against the members by name, and demanding a committee, with *special authority*, to proceed against them. But, sir, the question is, not what the House upon such authority *might have done*, but what it in point of fact *has done*. It can, with no reason, be pretended that the resolutions as they stand on the journal admit of the slightest abridgement or enlargement by reference to fame, rumor, or anything else extraneous. I

repeat, sir, the House is now required to ascertain, not what its powers in given cases would be, but what its action in this case has been. Our successors, in reviewing this proceeding, will do so through the records of the House. They will look to nothing else. Fame, rumor, common understanding are fugitives, perishable; the resolutions, the records are permanent and perpetual, and, like other records, impart absolute verity. They only will speak; and they must speak for themselves.

Driven, sir, as I think all candid men must acknowledge, from the positions that accusatory power was specifically conferred on them by the language of the resolutions, and that the effect of the resolutions admitted of extension by reference to matter not contained in them, the committee now seek to derive the power from a different source altogether. *The reference of certain petitions and memorials* is relied on as operating an enlargement of their original powers under the resolutions. That no such effort was produced or intended to such reference, I leave the House to the very able and extended arguments of others, especially of those by whom most of the petitions were presented. If any thing, however, were wanting to prove that the committee acted independently of the petitions, and without the smallest reference to them, so far as their powers are concerned, it will be found, in the most convincing form, in their own journal; from which it appears that the mass of the evidence, indeed all that is essential to their accusation, was taken, and the whole course of the committee distinctly indicated, before the first petition was referred. They had sat more than two weeks, before any reference of the kind was made; and then it produced no deviation from the direction which was given to the inquiry in the first instance.

But, sir, frustrated in their efforts to deduce the power of the committee from any positive delegation by the House, it is claimed as derived by *surrender* of

the parties accused, who it is insisted, voluntarily appeared before the committee and offered testimony in defence, and thereby waived rights which they might otherwise possess. The answer to this pretension is, that it does not appear by the journal or otherwise that the members involved received, at any time, the slightest intimation that an accusation against them was meditated by the committee. But if they had been notified of the facts in the most formal manner, and had, in a manner equally formal, signified their consent to the assumption by the committee of the power to accuse by a distinct waiver of their privileges, whatever they might be, still the question of power on the part of the committee would remain unaffected; for by the law of the House "the privilege of a member is the *privilege of the House*. If the member waive it without leave, it is a ground for punishing him, but *cannot, in effect, waive the privilege of the House*." This law, sir, requires neither enforcement nor comment.

That last resort, sir, is, that no matter how irregular or unjustifiable the proceedings of the committee may be, the *public voice* demands their ratification by the House. That voice I trust always most profoundly to respect. I acknowledge, sir, that a deep sensation amongst the people of the United States has been produced by the transaction to which these proceedings relate. So far from deploring, I take the highest satisfaction in beholding it. It is the spontaneous tribute of the nation to the cause of law, morality, and religion. It affords occasion for patriotic exultation. I do exult. But, sir, the feeling of which I speak is not what some gentlemen suppose it to be. It is no partial or party feeling. It looks not to this particular case, or to particular persons. It looks to the practice, to the future, to the enactment of laws, and the correction of public sentiment. It rests its condemnation, so far as condemnation is passed, alike upon the survivor and the deceased. It regards the wrong, or misfor-

tune, or crime, or whatever you denominate it, as one of *mutual agreement,* to settle by violence and blood a private misunderstanding. One fell; it was no fault or merit of his that the survivor did not. Whose delinquency was greatest? The fatal resort was the fruit, certainly of the coercion of a vitiated public opinion; and individual guilt depends upon the intensity of the coercion. Which party could most easily have resisted that coercion? Amongst whose constituents did public opinion *demand* such a resort. Amongst whose did it *forbid?* Who most defied the laws, the religion, the ancient and established usages, and opinions, and prejudices of those who surrounded him, and to whom he was responsible? The survivor or the fallen? Sir, these considerations enter, unless I greatly misconceive, into that public feeling of which the House has heard so much in this debate. Whilst you sit in judgment upon the living, and condemn him, that same public opinion will visit a like measure of condemnation on the memory of the dead.

Yet, sir, this deep, this just feeling of the people has, in my opinion, been disappointed, bitterly, by the action of this committee. Weeping over an event which could not be recalled, the nation hoped, as it had a right to hope, that the committee would act in a spirit and adopt measures calculated, by rectifying public opinion, to bless the country in the suppression of a practice replete with woe. But the painful spectacle has been exhibited of a transformation of a committee occupying the position of ministers of peace, into a lawless gang, trampling down, in the furious pursuit of a victim, all the restraints and forms that opposed their career of ferocity! Forgetting almost, in their eagerness, even to allude to the practice, and in their report doing nothing, recommending nothing for its suppression!

It is equally an error, sir, in my opinion, to imagine that men of intelligence in the United States regard this transaction as involving, on either side, the guilt

of deliberate crime. In the eye of law, and perhaps of reason, it may involve all the practical mischiefs of crime. But, in general, such events proceed from no felon source, but from a deep-seated vice of society and manners, if not from an infirmity of nature itself. I but speak the voice of history and experience when I insist that any other judgment respecting the practice of duelling is superficial and little to be trusted. It cannot be forgotten that it has been, to a degree almost peculiar, the fate of the great and virtuous of mankind to bow to the demands of this practice. Lafayette, Pitt, Fox, Castlereagh and multitudes like them, rank as illustrious but deplorable examples, not sir, of the *wickedness,* but of the infirmity in which this pernicious practice is rooted. In our own country, too, and in our own times, the same tribute has been paid to the same infirmity by names not illustrious enough, I grant, to transform a vice into virtue, but certainly to dignify it above crime in its common acceptation.

Besides, sir, when a community of freemen like that of the United States demand of this House, by petition or otherwise, the punishment of delinquency, real or supposed, they intend and expect it to be administered *under the forms of law.* They cannot be supposed to desire the law and all the analogies of the Constitution to be violated, in order to reach an alleged violation of law. To torture their petitions, or expressions of opinion in other forms, into a demand for the ratification of proceedings admitted to be irregular and unauthorized, is, therefore, both to mistake and insult them.

From the *public voice,* then, sir, no aid can be derived.

Mr. Speaker, all the difficulties with which the House now finds itself surrounded plainly proceed from an effort to impart a *special* character to a proceeding essentially *general.* If these resolutions were meant for a special effect, why were they not expressed

in special terms? The gentleman from Maine, (Mr. Fairfield), who introduced them, could have prevented all difficulty by proceeding directly, by name, against the members supposed to be implicated. Why did he not thus proceed? Such had been the unbroken practice in such cases from the first exercise of such a power by the House. Why, I demand of that gentleman to know, was it departed from in this instance? His colleague had fallen, within his knowledge, under circumstances involving, as the gentleman then believed and now contends, a violation, by members of the House, of its highest privileges, so flagrant as to merit expulsion, and to demand of him to adopt measures to that end. All this he claims to have known. Now, sir, why did not the gentleman specify the offence? The perpetrators? The intended punishment? Was he restrained by his modesty? His delicacy towards the delinquents? Or an infirmity of nerve? The country demands an answer.

No, sir; if reasons are to be sought to explain the extraordinary form of these resolutions, they are to be found in the extraordinary attitude of the party to which the gentleman belongs, with respect to this subject. That party has long since, in the most solemn manner, *denied the power of the House of Representatives to punish, by its separate action, as a breach of privilege, any offence not committed in the immediate view of the House, or involving a direct disturbance or obstructions of its proceedings.*

I proceed, sir, to bring the attention of the House and of the nation to the two most recent expositions of the principles of that party in respect to this power of the House. They are to be found in the celebrated proceedings of the House of Representatives against Samuel Houston, now President of the Republic of Texas; and in those disposing of the application of the Hon. E. Cooke, a Representative from the State of Ohio, demanding the exertion of the same power. These expositions are peculiarly authoritative, or ought

to be, with the party. They are displays of its principles when in their extreme proportion. They are productions of 1832, when the elements were boiling and bubbling in a caldron more terrific than that of Macbeth's witches, combining and condensing the dreadful mischiefs which have recently overwhelmed the country. They occurred before the first inroad was made on its ascendancy. It was the rank growth, then green and waving; now become the stubble through which the devouring flames of popular condemnation have of late, like horizontal lightning, so fiercely swept. They are precedents, sir, perfect in their kind.

On the 14th of April, 1832, the Speaker laid before the House of Representatives the following communication:

"To the Hon. Andrew Stevenson,

"Speaker of the House of Representatives.

"Sir, I was waylaid in the street, near my boarding house, last night, about eight o'clock, and attacked, knocked down by a bludgeon, and severely bruised and wounded, by Samuel Houston, late of Tennessee, *for words spoken in my place* in the House of Representatives; by reason of which I am confined to my bed, and unable to discharge my duties in the House, and attend to the interests of my constituents. I communicate this information to you, and request that you will lay it before the House.

"Very respectfully, yours,

"William Stanbery,

"Member of the House of Rep's. from Ohio.

"April 14th, 1832."

A resolution was thereupon offered by Mr. Vance, of Ohio, the colleague of the gentleman, proposing that the House should proceed against Houston for this supposed breach of privilege.

On the 14th of May, sir, of the same year, the Hon. E. Cooke, of Ohio, rose in his place, and said "that he held in his hand a letter from a Dr. Davis, of South

Carolina, one of the witnesses who had testified in the late trial of Samuel Houston, which had been presented to him by a person stating his name to be Alexander Dimitry, of Louisiana, as the friend of said Davis, which, together with the statement of facts connected with it, he asked leave to send it to the Chair, that it might be read for the information of the House. In submitting this request, Mr. Cooke said he wished it to be distinctly understood that without in the least waiving his personal rights as a member, or intending, in any manner, to compromise either the rights or constitutional powers of the House, it was, nevertheless, not his purpose, individually, to claim the institution of any proceeding whatever on his own account upon the subject matter of that communication. Such had not been his motives in presenting the letter; his personal rights formed no part in the object by which he was governed. Other and higher motives prompted him to this step—motives, which, overlooking every consideration of personal feeling and personal security, regard *the very existence of this House, the inviolable rights of the people of this country, and the dignity and honor of this nation.*" The letter was as follows:

"Brown's Hotel, May 12th, 1832.

"Sir: During my examination before the House of Representatives, in the case of General Houston, you *very impertinently* asked, among other questions, my business in this city. Whilst the trial of General Houston was pending, I deferred calling on you for *the explanation* which I *now demand,* through my friend, General Dimitry.

"I am, very respectfully, your most obedient,

"E. S. Davis.

"Hon. E. Cooke."

Accompanying the foregoing letter, Mr. Cooke submitted the following statement:

"On the trial of Samuel Houston for an assault on

a member of this House, which has just terminated, a person by the name of E. S. Davis was examined as a witness on behalf of the accused, and, on his cross examination, I propounded to him several interrogatories. After he had left the stand, and while on the floor of the House, he said, apparently referring to myself, and in a tone of menace, that 'there will be another hauled up here' soon.

"On Saturday last the accompanying note was handed me by a person calling himself Alexander Dimitry. To the persons, character, and calling of these individuals, I am an utter stranger.

"Had I considered this a mere personal matter, I should have passed it by without this notice; but all the circumstances of the case do, in my opinion, preclude the idea that it is so. And connected, as this is, with other instances of attempts, by menace and violence, to overawe the members of this body, and curb the freedom of debate, I have thought it my duty, in behalf of the American people, and especially that portion of them whom I represent, to present this matter to the House.

"E. Cooke, Rep. from Ohio.

"May 14th, 1832."

This communication, sir, was followed, as in the case of Houston, by resolutions offered by Mr. Crane, of Ohio, a colleague of Mr. Cooke, proposing to proceed as for a breach of privilege.

It cannot be necessary, I think, to enforce the strict analogy, in principle, between those cases and the present; it must be manifest. That of Cooke is not only analogous in principle, but nearly identical in circumstances. It is, indeed, a stronger case than this; for the letter of Davis was a *simple and direct challenge*, borne by his second, given, avowedly, for matter transpiring in the House.

No just distinction, sir, can be established between the proceedings referred to and the present, because in

them the House contemplated action against private citizens, *not members;* for, in all, the contested principle was the right and power of the House to punish, as a breach of its privileges, an offence not committed in its presence. It was accordingly argued throughout as a question of power on the part of the House, without regard to *the objects* on which it was to be exercised. To show that the committee in the present case repudiate such a distinction, it is but necessary to refer to their report, which expressly holds *private citizens* connected with the transaction amenable to this power of the House, but not meriting, for peculiar reasons, an exercise of it.

Well, sir, how did the House dispose of the two cases to which I have referred? Without fatiguing the House with a review of all that was said and acted in the progress of these memorable proceedings, I shall content myself with referring you to the speeches and conduct of a distinguished gentleman, then and yet belonging to the party, and now, as then, a member of the House; who is, at this moment, in the fruition of the highest honors that the House can confer either as a tribute to talents and virtue, or as a compensation for unscrupulous partisan devotion; a gentleman, sir, who whatever may be the feebleness of his abilities, or the insignificance of his authority in the estimation of others, with you, I know, possesses commanding influence. That gentleman was the champion selected by the party to denounce to the nation its principles with respect to this power of the House. He uttered, moreover, by his own declaration, the opinion of the head of the party himself, then President of the United States. What were those principles? I answer, sir, in the exact language of the distinguished gentleman himself:

"Every gentleman," said he, "must be aware that a great difference of opinion always had existed as to *the power of that House to punish as a contempt any act which did not interrupt or impede the business of*

the House. * * * He did not admit that *the House possessed any such power;* and he believed that a great majority of that House, upon a deliberate and full examination of the question, would hold the same distinguished gentleman himself:

"He would ask whether it was not equally a contempt of the House for a citizen to challenge one of its members to mortal combat? Was that not as much a breach of its privilege as the present case? Should a member of a co-ordinate branch call a member of that House into the field to mortal combat, would not that be as much a contempt also as this? And has not that been done and passed by without notice? Or, if the Head of an Executive Department should do the same thing, would not the breach of privilege be as great? And was not that done a few years ago? Where was the limit to such a power, if you take cognizance of such cases as this? How was it to be defined or restrained? He could not perceive; and he therefore considered it as *totally inconsistent with the spirit of our institutions.* * * * When this case was first brought to our notice, &c, I expressed to the House the opinion hastily formed, which I at that time entertained, in regard to its powers to try and punish for this offence. *Upon full examination of the question,* I am confirmed in the opinion *that this House is invested with no authority under the Constitution or laws of the land to punish as for a contempt, or violation of its privileges, any offence committed not in the presence of the House during its session, or in such manner as to disturb its proceedings.* * * * Let us first examine the arguments of that class of gentlemen who maintain that the power may be found in the Constitution. It is said that by the sixth section of the first article, 'Senators and Representatives shall be privileged from arrest,' &c; 'and for any speech or debate in either House, they shall not be questioned in any other place.' * * * The latter clause of the sentence is equally clear. It intended to provide,

simply, that for 'any speech or debate in either House,' the member shall not be held to answer in any *other place.* That he shall not, for example, be subject to be prosecuted in the courts for libellous words spoken in debate; or be held to answer in an action of slander. Do these exemptions to members of Congress, confer *the power on either House to punish?* &c. * * * What are your privileges? The Constitution is silent in regard to them. You have passed no law declaring them. They are unknown and unidentified. If they exist, no citizen can know what they are, nor the sanction which attaches to a violation of them. Both their nature and the punishment which you may inflict rest, in the *sovereign, arbitrary, and despotic discretion* of this House. * * * It is unquestionably true that, for words spoken in debate, the member of Congress can at no future period, however remote, be prosecuted for a libel, or sued for slander. And should it be attempted, he may plead his constitutional exemption in bar. But, because this is the case, it cannot, surely, be contended that he is protected, more than any other citizens, from personal violence. * * * If the doctrine of privilege in England is the law here, I demand of them to show me how it has become the law binding upon Congress. Has it been adopted, in part or in whole, by the Constitution or laws? That is not pretended. The truth is, they cannot be of any sort of authority in either branch of Congress, either as law, or guides for our proceeding. They have not and in the nature of things they cannot have, any application in our Congress, *and must be wholly rejected.*

"The question submitted to the decision of the constituents of every gentleman here is, whether, under a Government where there are no separate orders, *the public functionaries are to be elevated above the Constitution and laws,* and take into their own hands *the despotic and odious power* of avenging their own violated dignity, whenever they may, in their unbounded discretion, choose to consider that it has been infringed.

"I undertake to show, sir, that the power which this House now assumes to exercise without law is the identical power which Congress attempted to assume in the enactment of the 'alien and sedition laws'; and that the arguments adduced to sustain it are the same arguments adduced in 1798 to sustain the constitutionality of the 'alien and the sedition law.'

"The power is *despotic*, depending upon your whim, caprice, or arbitrary will, and is, therefore, if possible, *a greater invasion of the rights of the citizen, and more despotic and arbitrary than even these obnoxious laws.* * * * *

"But, if it be conceded that, *in high party times,* in periods of high political excitement, or in cases where the jurisdiction and power of the House were not drawn in question, the House may have exercised the power, the answer to any argument drawn from such premises is an easy one. It is, *that one usurpation can never either justify or sanction another.* * * *

"To show the absurdity of the exercise of such a power by this House, if it possessed it, without law, I ask the House what *punishment* it will inflict if the accused be found guilty of a contempt or violation of privilege in this case? * * * You have the same power to impose one as another. You have the same power to punish *with death* or the amputation of a limb, that you have to inflict any other. * * *

"The evidence before us shows that when the member from Ohio first thought himself in danger of an attack from the accused, *he did not then bring his complaint to this House*, but prepared himself *with deadly weapons for mortal combat,* and put himself on his personal defence. By so doing, *he waived the privilege,* if he had any, which it is now insisted has been violated. He was, in fact, *armed at the meeting*, and his adversary was unarmed. *He happened to get the worse of the rencontre,* and then the complaint is made to this House and we are called on to *avenge the wrongs* which he has suffered. If the member from

Ohio had been the *victor* in the combat; if his pistol had not missed fire; and had he *disabled or slain* the accused, this House would never have been troubled with the case. But as he happened to be *unfortunate* in the fight, we are told that our dignity has been insulted, and our high privileges invaded. * * *

"Sir, I know that it is, at all times, an *ungracious argument* to address to any body of men like this, when you tell them that they possess no power to do that which they are strongly desirous of doing. All history instructs us that whenever the rulers of other countries have strongly desired to possess and exercise a power of any kind, they have never failed *to look out for specious pretexts to do so.* * * *

"I am sure I shall be borne out by gentlemen on all sides of the House, when I say further that the whole proceeding in this case shows us to be the most unfit triers; and that, in periods of high party excitement, this enormous power may be used, and probably will be, to the great oppression of the citizen. What excitement and warmth of feeling have we witnessed on this trial? How unlike grave judges have we occasionally appeared! * * * Here we have been, *at the most important period of the session*, engaged *near a month in trying it.* I take upon myself *no part of the responsibility of this useless consumption of the time of the House.* I voted against the arrest, and have, from the commencement of the trial, viewed the whole proceeding *as a usurpation of power.*" * * *

Who, sir, was this "most righteous judge," this "second Daniel," this Aaron, this "spokesman of his party," to them "instead of a mouth," in this exposition of the powers of the House and the principles of the Constitution?

(The Speaker here interrupted him as he had repeatedly done before whilst on this branch of the subject.)

In this oracle, sir, you make, I know, a kindred rec-

ognition. Yes, sir, in him you but behold yourself. Your own consciousness whispers, what the public voice will thunder, in your ear, "thou art the man!" The review may be painful. Like him who had "done the deed," you may exclaim—

> "I'll go no more:
> I am afraid to think what I have done;
> Look on't again I dare not."

Still, the deed is done. There stands the record.

Who could have supposed, sir, that, after all this, these principles would, within so short a period, have been abandoned, and those who maintained them be found, as they now are, ostensibly urging the exercise of a power then denounced as *illegal, unconstitutional, usurped, despotic, odious!* Can it be possible—can such shameless repudiation of opinions and principles be credited as that the exercise of that same power by that same party is really meditated in this case? I do not believe, sir, that it is meditated, or at any time has been. I am, on the contrary, fully justified, by the facts which I have just stated as connected with the recent history of that party, in maintaining that the Administration party in this House have been perfectly sensible, from the commencement of this investigation that, no matter how deep the criminality of those implicated, they, *as a party*, would be forced *to deny to the House any right or power whatever to punish it.* To take any other ground would, in them, be so flagrantly and scandalously repugnant to their former doctrines and action, as to expose them to imputations which the most abandoned prostitution might desire to avoid. I repeat, therefore, *that the direct assertion or exercise of such a power, by that party, was at no time intended.*

This view, sir, of the position of that party, in regard to the power in question, will at once explain the otherwise incomprehensible form of these resolutions; why they are indefinite and general, and in that respect, contrary to the established usage and express

law of the House. For, sir, if they had been direct and specific, meditating, in terms, an exercise of the power which I have stated, *they must have been instantly rejected by the House;* certainly rejected if the sentiments of that party could have prevailed. Many of the party whose names are recorded in support of the doctrines which I have imputed to them, are now members of the House, gentlemen high in station and influence, all favoring these proceedings! This general and indirect form of proceeding was accordingly adopted *to escape an assertion of the power;* for to have instituted proceedings expressly aiming at punishment would necessarily have presupposed the right and power to inflict it, and all this for what?

With the intention, sir, of seizing the occasion which it was supposed the death of one gentleman in a duel with another who happened to be a political opponent afforded, of diverting public attention for a season from the wretched condition of public affairs, and of effecting this under color of devotion to religion and law! To lend themselves to a proceeding to which they sought, by its generality, to give the *appearance* of a criminal procedure, without daring in terms, to give it that shape! With a view to investigations, reports, and accusations, against distinguished members of the opposition, with a perfect knowledge all along that the proceedings *would be arrested*, and arrested by that party, the moment the work of *accusation* was done! To the extent of accusation they could readily go, to attain a party end; to hear, to try, was no part of their purpose; to *punish,* under their interpretation, was no part of their *power.*

How far the country will be disposed to countenance this deliberate prostitution of the action and time of the House, for such purposes cannot, I think, be difficult to anticipate.

Any opinion, sir, which I may entertain with respect to the extent of the privileges of the House, or its powers to punish violations of them, need not be now

expressed, as it is not demanded by the immediate question. That those in opposition should hold, as a party, that *the power* of the House was fully adequate to any measure of punishment demanded by them even in which these proceedings originated would be altogether natural and consistent. They had so held on former occasions when political *adversaries* were implicated; their opinion is unaltered, their conduct is unaltered, though political *friends* may be implicated. I honor a constancy which contrasts so strikingly.

If any doubts, sir, could have remained respecting the irregularity of this report, and the necessity of its recommitment, they must have been wholly removed by the extraordinary disclosure made, after a week's discussion, by the chairman of the committee. In answer to a question propounded by a gentleman from Virginia, (Mr. Wise) the chairman confessed, to the amazement, doubtless, of all who heard him, that *the report had undergone alterations* after it had been last seen by those whose act it purports to be! He states, however, that the alterations, he thought, did not *materially vary* the sense; that they were, for the most part, but *critical* alterations!

Sir, with respect to that report, "*honor* was the subject of its story." It impugns, deeply, the honor of gentlemen; an honor before spotless. Its texture is too delicate for such a touch for even the chairman of this committee. The utter impropriety of altering a report, to any extent or for any purpose, in such a case as this, must be manifest to all who duly estimate the value of honor or the delicacy of sitting, as this committee have assumed to do, in judgment upon its laws. This the chairman should have known.

"'Who governs freemen should himself be free.'"

The principle applies with even more truth to him who would pass judgment on honorable men.

It is suggested, sir, that the report *was softened* by the alterations. That does not at all palliate the outrage. If the merits of this report shall ever become (which they will not) the subject of review here, it will be demonstrable that an alteration by which its violence was mitigated is more prejudicial to the accused than one aggravating it. From audacious, monstrous injustice, innocence has nothing to fear; it defeats, by its enormity, its own purpose. It is dangerous only when it becomes plausible, when, though not the truth, it is made to resemble it. So with this report.

But, sir, if the House were amazed by the annunciation that an alteration of the report had been perpetrated, it must have been astounded by the declaration which accompanied it. The chairman proceeded, on the occasion referred to, with the utmost complacency, to disclose that the report *had not been agreed to* or even *seen* by a majority in actual committee, but had been privately exhibited, and *privately* acquiesced in! Upon this I pass no judgment of my own; I deliver it over to the rebuke and condemnation of a law of this House, too solemn to require enforcement, and too explicit for comment.

"A committee meet when and where they please, if the House has not ordered time and place for them. *But they can only act when together*, and not by separate consultation and consent, nothing being the report of the committee but what has been agreed to in committee actually assembled."

You, sir, might have protected the House against an irregularity like this, by announcing, on the instant that the fact was stated by the chairman, as your duty clearly was, that the paper thus presented as a report was, in point of Parliamentary law, no report; that it was an unauthorized private writing, thrust, irresponsibly, upon the House; and that the only regular course was, as a matter of order, at once to reject it. Why was this not done?

Will the *applicability* of this law, too, be controverted? Or will an exposition of the principles on which it rests be required? Sir, it seems as if law, standing by itself, and upon its own authority is of no consideration, *merely as law*, with certain philosophic jurists of this House. The principles, however, of the law in question are neither obscure nor difficult of exposition. The rule results necessarily from the nature of legislative committees, which are *organized official bodies,* with their peculiar privileges, powers, and duties, as such. To the extent of their functions they are as essentially organized and official as the House of Representatives itself. In every parliamentary view it would be as indispensable to obtain the consent of members of this House, separately and privately, without entering this Hall, to the highest and most responsible acts of legislation, and ascribe to them the validity and effect of acts *of the House*, as to obtain the consent of a member of a committee, in the private and irresponsible manner stated by the chairman, and insist on it as *the act of the committee*. The amplest illustrations might be readily drawn from the judicial and other tribunals; but I will not suppose them to be required in a matter so palpable.

Yet, sir, this interposition of the laws of the House between the committee and their purpose is sagely pronounced *exception to form, technical, evasive* of substantial justice! Sir, when you hear those whose province it is to ascertain and administer, *the law as it is,* pronounce its provisions to be formal, or technical, or evasive, and on that account to be disregarded, especially in a criminal procedure, you have the authority of history for pronouncing them either unlearned in the doctrines or faithless to the principles of freedom. This expression, I admit, is strong; but, sir, it is just.

What is a free Constitution, what are laws, but the *forms,* the *technicality,* the *evasion* interposed between the weak and the powerful, between the tyrant

and his purpose? Sir, in the vocabulary of freedom, there is no justice, no right, no wrong, except as known to the Constitution and laws, *just as they are*. God forbid that there should be! The American Representative who, for the miserable party ends at which these proceedings aim, is unfortunate enough to entertain, much less publicly to utter, sentiments which this debate has elicited, is an object of real pity; he has mine. These sentiments originate in a region far, far below a just conception of the dignity of constitutional liberty; and there only, if anywhere, they are doomed to flourish; they perish by elevation.

These proceedings, sir, are intrinsically important; they are infinitely more important as a precedent. The attempt to *signalize* this case will, from that cause alone, attract the observation and the keenest scrutiny of our successors here and of posterity into the present action of the House. For one, I prepare to encounter that scrutiny, and to defy it; by firmly maintaining the just privileges and powers of the House, on the one hand, and maintaining with like firmness the laws of the House and of the land, and the principles and analogies of the Constitution, on the other; by recognizing the sentiment, that every public functionary and tribunal—the House of Representatives pre-eminently—should by their example, inculcate a spirit of respect for the laws—*in substance, and form and throughout*—as the only means, in a free country, of averting its precipitation into faction, violence, and disorganization.

The question, sir, is no longer, "what the law is," for that is manifest. The question now is, "shall it be respected?" Sir, decide.

On May 11, Menefee, from the Committee on Patents, reported, without amendment, Senate bills authorizing the issue of patents to cer-

tain persons therein named; which was ordered to a third reading on the following day.

On May 12, G. W. Hopkins, of Virginia, introduced the following resolution: "*Resolved, by the Senate and House of Representatives of the United States of America in Congress Assembled:* That the Secretary of the Treasury be, and is hereby authorized to reissue to the amount of two billions of dollars, Treasury Notes, authorized by the act approved the 12th of October, 1837, under the restrictions, conditions and limitations therein prescribed." John Quincy Adams, representative from Massachusetts, sixth President of the United States, wrote in his Diary[1] of this bill: "The Treasury Note Bill was resumed, and Underwood's amendment was debated by Hopkins, Wise, Underwood, McKay, Robertson, Legare, Patton, Cushing, Foster, and Richard H. Menefee, a young man of great promise from Kentucky, successor to that oracle of judicial wisdom in the last Congress, French. Menefee's Speech struck me as the strongest that has been made on this bill." Menefee replied to Representative Rhett of South Carolina. He opposed the bill. Again Adams wrote in his Diary: "Menefee called R. Barnwell Rhett's speech 'a volcanic eruption,' and immediately answered him in his own style of blustering and defiance."

MENEFEE'S SPEECH ON THE TREASURY NOTE BILL.[2]

Mr. Speaker:

I do not rise to debate, now, the merits of the question before the House: but to relieve it on the first

[1] Adams's Memoirs, edited by his son, Vol. 9, page 394.
[2] Speech in *Lexington Intelligencer*, June 22, 1838.

instant, simply and in a few words, from the false position in which the gentleman from South Carolina (Mr. Rhett) has, in the speech just delivered, sought to place it.

Sir, that was a most surprising speech, greatly deviating, I think, from the style of discussion which should be cultivated here. What does the gentleman mean? Does he mean *menace?* He must have so meant, or he meant nothing. Sir, before resorting to that expedient on an occasion like this, he should have remembered that it has been heretofore so freely and indiscriminately employed in the same quarter whence it now proceeds, that, though clothed in its accustomed thunder, it no longer inspires terror; scarcely excites notice. It is at length become a regular *exhibition,* which all expect, none regard.

But, sir, whence this present *volcanic eruption,* whose flame and smoke so sublimely mingle with the thunder and lightning of this new manace? The cause that produces it is about as potent as the effect. What is it?

The Government, sir, by a series of financial disasters, which popular opinion ascribes to a series of financial enormities perpetrated by the Administration, has at length reached a point requiring, in the opinion of the President, that he should inform the House (what it knew before) that the Treasury is in a deplorable exigency, demanding the early adoption, of Congress, of measures for its relief, which he proceeds most pressingly to recommend. Well, sir, this House, whose peculiar province, under the Constitution, it is to *originate* measures of the kind, is satisfied that such exigency does exist; and, without distinction of parties, proclaims a readiness and determination to furnish the requisite supplies, and to proceed, at once, to the consideration of the most eligible *manner of raising them.* That they must be raised, in *some* manner, is admitted on all sides; the most appropriate

manner of doing so is the only question. Out of the boundless field of expedients, a choice must be made.

The Executive, sir, as it was his right to do, has *recommended* as most appropriate, the contraction of a *public debt* of ten millions of dollars. The House is likewise of opinion that a public debt is inevitable. The Executive, however, proposes what gentlemen please to denominate *an indirect loan,* in the form of an emission of Treasury notes. Gentlemen in the opposition suggest a *direct* loan, in the ordinary form. They resist the measures which the President proposes, on the ground that, in the view of the Constitution, it is *no loan;* that the proposed notes are meant for circulation, are paper money, are *bills of credit;* that, in employing the credit of the Government to raise money, Congress is limited by the Constitution to "*borrowing*" simply, no quality of which exists in the proposed issue, which is but the common instance of a creditor applying for payment, and the debtor for want of money, liquidating the debt on it; that it is an expedient by which nations may be overwhelmed with debt, and their credit subverted, by insidious advancing perceptible to the people; that up to this period, it has never been tolerated in time of peace, but reserved, exclusively, for the calamities of war, when the Government, unable to raise money by the Constitutional means of "*borrowing,*" was forced to the extremity of making it by the emission of paper, as is now contemplated. For which, and other insurmountable objections, they insist that *the manner* which the President recommends of raising supplies should not be resorted to. In all which, if I do not agree, I certainly perceive great force, fully demanding the maturest deliberation of the House. A plain man, I think, would discover nothing very objectionable in all this. But, sir, how does the gentleman from South Carolina regard it?

Why, sir, that gentleman looks not to those or any conceivable objections, deigns not to meet them, assumes by instinct that to liquidate a debt of note necessarily implies a *borrowing,* scorns deliberation,

oversteps all obstacles, hearkens to nothing, but leaps, right at once, by inspiration, thunderclad, to the conclusion that any party, or any man of any party, that dares to oppose a question *the precise manner* of raising supplies recommended by the President, or to hesitate one instant, upon Constitution, or expediency, or other grounds, are faithless to their trusts, devotees of faction, and foes to the Government of their country! That to decline to pass this bill, just as it is, and just now, would present an example of lawlessness by this House, unavoidably resulting in the immediate overthrow of the Government; in anarchy; in the extermination of all corporations, and the demolition, by the hand of violence, of the edifices—the marble palaces—which they inhabit! And all this to be accomplished by the aroused loyalty of the nation!

Sir, is the dignity of this House best consulted by giving too much language and place amongst the habitual ravings of gentlemen, heard and forgotten? Or by giving vent to the vengeance which it seems to provoke? Sir, this language, proceeding from any quarter would be inadmissible. But, sir, for that gentleman to speak, and so to speak, of example of lawlessness; of attachment to the Constitution and laws; of faction; of infidelity to the Government; of loyalty, sir! Whose examples? Whose loyalty? Loyalty to what? Sir, within the memory of man, we have had examples of the respect due, and, sir, the respect paid to the Constitution and laws! We have had examples of the loyalty! They were memorable examples. The nation remembers them, and will remember. It remembers, sir, the part which the gentleman took in setting those examples.

Examples! Loyalty! Why, sir, on a constitutional doubt incomparably weaker than that which exists against this measure, that gentleman, a few short years ago, showed himself not only willing that the Government should suffer embarrassment by an *omission* on his part to act, (the sin which he now im-

putes to others) but ready and willing, and striving in open defiance of the laws, and in willing subversion of the Constitution, to dissolve, with an eternal dissolution by violence and in blood, the priceless union itself! Are these the examples; is this the loyalty, whose imitation is invoked? I know of no others with which the Gentleman is so closely identified.

"*The Government will stop!*" exclaims the gentleman. Does he think so? I would be quite sorry if it did stop. Why should it stop? Who will stop it? *Supplies, I understand*, is all that is wanting. The House on all sides, proposes to grant supplies to the full extent required. *Still the Government will stop!* Perhaps, sir, we are to understand from the Executive by authority, though the gentleman who present loyalty to his new ally, the Executive, so far exceeds his former loyalty to the union, that the Government will stop unless the House shall not only grant the requisite supplies, and grant them in the precise form recommended; that the President, when he *recommends a form*, means to prescribe it; that the exhibits is measures as his *ultimatum*, on the rejection of which he will stop the Government. The gentleman, sir, in his speech has freely employed the word *dare*. It is bold and expressive. I have use for such a word, and will use that. Sir, let the Executive *dare* to stop this Government for such a cause! Let him *dare* to prescribe to the Representatives of the people a form of supplies, in which, to the exclusion of all other forms, he shall persist, against their will, at the hazard of stopping the Government Let him *dare* to transcend his appropriate sphere to seize or attempt to seize from this House the inestimable right, and its undoubted prerogative of raising supplies in the form of which he shall judge most agreeable to the people! The Gentleman talks of *issues*. Let the Executive *dare* to make that issue! If, under the impulse of a new infatuation, or of an audacity inspired by his late alliance, the Executive shall *dare* to stop the Government, on *such*

an issue, I am prepared for it! Let it come! Its decision by the people will not be doubted.

That the nation, sir, may be spared the display by the Executive of such *"Deeds of daring,"* my loyalty leads me most devoutly to hope. I would devolve somewhere, a responsibility, not great only, but awful; a responsibility resting, in my opinion, in undivided force, and solely on the Executive, and those who second his councils. Sir, the Executive and these councils already sustain a volume of popular reprobation which bends them almost to the earth. Let them not, by a measure so monstrous as that indicated, augment the pressure which now overwhelms them. They should be content to drag quietly to a close, now not distant, an Administration which promises no good to the country, and is too imbecile and crippled to threaten further harm; without kindling, by fresh outrage, a fever of *real loyalty;* which, though not leading to the violent demolition or conflagration of corporation or other edifices, might entail upon a prostrate and expiring Administration pangs which might be well escaped. The fruits of the works so disastrously begun are bitter enough already, as well to the actors as the sufferers. Sir, the succession of wrongs by the Administration, and resulting distresses amongst the people, require no such "crowning mercy" as this.

"Your party will be prostrated!" threatens the gentleman. Sir, that party of my connection with which I am not altogether free from pride, is a powerful party, rapidly growing, talented in its composition, in its principles, right. But by whom is it to be prostrated? For what? Because, in this emergency, looking steadfastly to its duty and responsibility to the people, it plants itself on the most impregnable rampart of the Constitution—*the supply granting power;* and, defying the Executive, firmly upholds, and defends that power in its full vigor and dimensions. Because it will not surrender that power, on the first

summons of the Executive and its now confederates, at discretion, and without a blow! It can be nothing else.

That party, sir, stakes its existence on the Constitution and a sound, enlightened national policy, looking to the perpetuity of the nation. It means to stand upon them. But, sir, it is prepared to fall, if it but fall in their embrace. Its possible *prostration*, except in that form, is never *calculated* when it is required to act. The gentleman forgets of what party he speaks. He appeals to sentiments which belongs to another party, notorious of late. The question how "*victory will enure*," or defeat, is one asked by *that* party before it acts; not by that whose prostration is denounced. The nation will comprehend me; I trust the gentleman does.

Having thus, as I hope, sir, restored the question to its true position, my object in rising is accomplished.

The House continued in session until a quarter past one o'clock Sunday morning.

On May 18 the Senate bill to authorize the Commissioner of Patents to issue a patent to A. M. Perkins and J. H. Kyen was resumed, the question being on its third reading. The bill was discussed at great length by Menefee, Logan, Cushing, and Fletcher. After the discussion William Taylor of New York moved that the bill be recommitted to the Committee on Patents which reported it, with instructions to report the reasons on which the report was founded. The bill was finally passed.

On Monday, the 21st of May, petitions and memorials were called for, in the order that the States and Territories were on the House roll. Menefee, Pope, and Murray presented a memorial or petition.

On the 25th the House received by the hands of President Van Buren's private secretary, Abraham Van Buren, the report of the Secretary of the Treasury, Levi Woodbury, in answer to a request of Van Buren to look into some extract from a New York newspaper, relating to the manner in which foreign papers were admitted into this country. Secretary Woodbury replied that his department had been engaged in collecting information on that subject for the past two years; that these extracts, with others of like character, were placed on file in the Secretary's office without very much attention being paid to them. Woodbury did not notice that these extracts contained any personal reflection on the character of the President, nor did he know anything about the connection of these reflections. These papers had been submitted to the House, but Woodbury said that if he had noticed the reflections they would not have been communicated. Van Buren asked the House to withdraw these extracts.

After many members had commented on the extracts being brought before the House, Menefee arose and commented on the doctrine maintained by the last administration, that the President was responsible for the acts of his secretaries, and said that he must, upon that doctrine, be held responsible for this transaction. He was opposed to having the papers withdrawn from the records. He wished to have them stand. They would not go against the President, for it appeared that as soon as the President became aware of their character, he took the earliest opportunity to disapprove

them. The Secretary, he would neither excuse nor condemn at present, but he would desire that the record should stand complete, as, in one form or another, they would furnish proper ground for examination, if not for censure.

Finally, by an affirmative vote of 102, the noes were not counted, the original papers were ordered to be returned to the President.

On May 30, S. S. Prentiss took his seat as a member of the 25th Congress.

June 11, being "resolution day," Menefee offered the following resolution: "*Resolved,* That the President be requested to communicate to this House such information as he may possess relating to the alleged attack on the American steamboat *Telegraph,* in the British waters, and to the alleged destruction of the British steamboat *Sir Robert Peel,* in the American waters; what measures, if any, have been adopted in consequence thereof; and, if not incompatible with the public interest, such correspondence, if any, as may have occurred betwen this Government and the British minister or Canadian authorities in relation thereto; and any information possessed by him concerning the concentration and movements of foreign troops on the northern or northeastern frontiers of the United States."

On June 14 the "bill to grant pre-emption rights to settlers on the public lands" was then taken up. This bill had been introduced some days previous. At the evening session of this day Mr. Underwood of Kentucky introduced a resolution suggesting that this bill be recom-

mitted with certain instructions. His motion was warmly attacked and Mr. Sanson Mason of Ohio asked Mr. Underwood to withdraw his motion, which he declined to do.

Menefee then went at length into an argument against a prospective system of pre-emption rights, which he called a system of plunder to the injury and wrong of the old States, unless it could be properly restricted and guarded. His argument was generally in favor of the principle of Henry Clay's land bill.

Ratliffe Boon, of Indiana, replied to Menefee and said that he was not aware that the subject before the House was Menefee's speech, but Underwood's proposition. Mr. Boon stated that he had always been opposed to Clay's land bill, so he was, of course, opposed to Menefee's speech.

When the vote on Underwood's proposition was taken, it was defeated by the vote of 123 to 79. All of the Kentucky representatives except John Pope and Sherrod Williams voted for their colleague's proposition.

The original pre-emption bill was finally passed and the House adjourned at a quarter past nine o'clock.

At the evening session of Saturday, June 16, the bill for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, was taken up. Several amendments were offered to this bill and some of the members were not sure that Congress had anything to do with this kind of navigation. Menefee cited the opinion of Chief Justice John Marshall in the celebrated case of

Ogden vs. Gibbons, in support of those general views of the power of Congress over navigation, as an incident to commerce,[1] in which Marshall asserted the great constitutional doctrine of the power of the General Government to regulate commerce, and held that the word "commerce" in the Constitution comprehends "navigation." He also defended and sustained the applicability of this opinion of Justice Marshall in this case, to the question under consideration. The young Kentuckian was quoting the foremost constitutional lawyer that America has produced and the bill was finally passed.

On June 25 Menefee offered the following resolution, which was read: *"Resolved, by the Senate and House of Representatives of the United States of America in Congress Assembled,* That in compliance with the joint resolutions of the legislature of Kentucky of February 16, 1838, the President of the United States be, and he is hereby, directed to cause proper examination to be made by competent officers, of the town of Greenupsburg, and of the most important locks and dams now being erected on the Kentucky, Licking, and Green Rivers, with a view to the selection of a site for the contemplated national foundry on the western waters; the location of which is hereby postponed until said examinations shall have been made."

Mr. David Peterkin of Pennsylvania thought Menefee's motion was a good one and moved to amend the resolution by adding at the end of it, the following: "Also to examine the

[1] Wheaton's 6, 1.

waters of the Susquehanna River for the same purpose." Menefee asked Peterkin to make his motion more definite, and to confine the survey to some particular point on the river. Peterkin replied that it was his purpose to have a general survey of that river, and he could not consent to modify his amendment to meet Menefee's wishes. The House then took its usual recess until half past three o'clock.

On July 3 the House resumed the consideration of the Senate bill "to modify the last clause of the 5th section of the deposit act of June 23, 1836, and for other purposes." George N. Briggs of Massachusetts moved that it be read at large. After the reading C. C. Cumbreling of New York explained its provisions and the necessity of the measure, called for by the existing circumstances of the State banks conflicting with the imperative restrictions of the deposit act of 1836.

Menefee replied to Cumbreling and quoted Mr. Wright's report to prove that the Secretary of the Treasury had the power to designate other depositories than those which had already been employed, in which opinion Menefee expressed his own concurrence, and went on at length to oppose the bill; the effect of which, he insisted, was to put the whole finances of the country within the arbitrary control of the Executive. After many corrections the amendment passed.

The first regular session of the 25th Congress adjourned July 9, 1838. It was one of the longest sessions of Congress that has ever been held.

CHAPTER VI

WEBSTER AND MENEFEE

Although physically worn out by the long session, Menefee, with Wise and Prentiss, accepted an invitation to address a great gathering of people at Havre de Grace, Maryland, a few days after Congress had adjourned. Wise made the first speech and he was followed by Menefee with "a brilliant speech," and Prentiss made the closing address. Prentiss began his speech with the wonderful words: "Fellow citizens: By the Father of Waters, at New Orleans, I have said 'fellow citizens.' On the banks of the beautiful Ohio I have said 'fellow citizens.' Now I say 'fellow citizens,' and a thousand miles beyond this, north, I can say 'fellow citizens.'"[1] It was an initial note in a universal song of American brotherhood.

From Maryland, Menefee, with Prentiss, went to Boston, Massachusetts, where on July 24 he made the principal address at the great Faneuil Hall banquet in honor of Daniel Webster. Edward Everett was chairman of the meeting, and five thousand persons were in attendance. Everett made the address of welcome and he was followed by the guest of the meeting, Webster. S. S. Prentiss followed Webster, and then Menefee arose. It was the only time that the eloquent Kentuckian was ever in Boston, and then he was heard in the famous Faneuil Hall—the "Cradle of Ameri-

[1] Shields's Life of Prentiss

can Liberty." The Boston newspapers said Menefee was listened to with "joy." He responded to the toast "Kentucky."

SPEECH ON KENTUCKY[1]

Mr. Chairman:

I can not remain silent under the sentiment which has just been announced and so enthusiastically received. That sentiment relates not to myself but to Kentucky—dearer to me than self. Of Kentucky I have nothing to say. There she is. In her history, from the period when first penetrated by the white man as the *dark and bloody ground,* down to the present, she speaks. The character to which that history entitles her is before the world. She is proud of it. She is proud of the past; she is proud of the present. And her pride is patriotic and just. As one of her sons, I ask to express in her name, the acknowledgements due to the complimentary notice you have taken of her, a notice not the less complimentary, from its association with the name of Massachusetts.

There is much in the character and history of Massachusetts, which should bind her in the strongest bonds to Kentucky. Your sentiment places them together: just where they ought to be. Kentucky is willing to occupy the place you have assigned her. Without respect now to subordinate differences in past events, both States stand knit together by the highest and strongest motives by which States can be impelled. I mean the motive and purpose common to each of maintaining and upholding, in every extremity and to the very last, the Union of these States and the Constitution. Massachusetts has proclaimed over and over again her resolution not to survive them. Nor will Kentucky survive them. She has embarked her whole destiny—all she has and all she hopes for—in the Union and the Constitution. Let come what may

[1] Speech in Boston *Transcript* for July 25, 1838.

of public calamity, of faction, of sectional seduction or intimidation, of evil in any form the most dreadful to man, Kentucky, like Massachusetts, regards the overthrow of the Union as more frightful than all. Kentucky acknowledges no justification for a disruption of the Union, that is not a justification for revolution itself. In that Union, and under that Constitution, Kentucky means to stand or fall. Kentucky stands by the Union in her living efforts; she means to hold fast to it in her expiring groans. With Massachusetts she means to perish, if perish she must, with hands clenched, in death, upon the Union.

God knows, our institutions have of late been sufficiently shocked to excite the just fears of us all. The very worst elements among us have been aroused into the most terrific activity. Much of the public virtue and intelligence of the country has been overwhelmed; and those whose exalted qualities of intellect and of patriotism should have designated them as the fit agents of the people, in the administration of a free Constitution, have been left in obscurity and neglect and, in some degree, exiles in their own land. Wave after wave has dashed over the country in a succession too rapid almost to allow the Constitution, or even Liberty itself, to breathe. Nearly every interest violently assailed, nearly every institution struck at, nearly every principle, formerly held dear and sacred, disregarded and trampled upon, innovation and lawlessness dashing headlong over everything, under the terrific guidance of the presumptuous ignorance and prescriptive vengeance of our rulers; how could the enlightened friend of freedom fail to tremble for the country? But the storm is over. The Genius of our liberty and institutions is erecting himself, and the first spectacle he beholds is the scattered and shivered fragments of the lately overwhelming power to which he had been forced temporarily to give place. And on will these fragments drift, inert and uncontrolled—into the insignificance and utter annihilation,

to which they are tending, and from which no power, short of God's, can rescue them. As they float down to their inglorious destiny, they will be pursued till out of sight, by the strained eyes of a people, whose injuries and insults force them to exult in administering a long farewell of execration.

In these dark hours Kentucky and Massachusetts stood together. They could not roll back the cloud. Yet all that man could do, they did. Of the part which Kentucky's most illustrious son took in that gloomy period, it does not become me to speak. His acts of that day are indelibly inscribed upon the hearts of his countrymen. They are safe. But of Massachusetts and of her illustrious champion in that conflict—your guest—I am free to speak. Of him I have a right to speak. In him, and in the like of him, I hold common property with yourselves. He is my fellow citizen as well as yours. He belongs to the whole country. If you glory in him and honor him, so do I. If you have seen him in the worst days of the Republic, planted upon the Constitution, and gloriously and triumphantly defending and vindicating it, so have I. If you have seen him dealing in showers his thunderbolts upon the foes of the Union—so have I. His fame and his services, and the fame and services of the illustrious associate to whom I have referred, like the high seas, do not admit of appropriation. They are yours, they are mine, and they are the nation's. In some sense they belong to mankind. I delight no less than yourselves, in offering to your guest this tribute of admiration and gratitude, who for years has stood a massive, personified pillar of the Constitution. But for his services in the exposition of the true principles of the Constitution, when they were first assaulted under the late administration, no man can foresee the disasters which might have befallen the Union, and with it the cause of liberty. The late President, then in possession, in fact, of absolute power, was notoriously arrayed against the principles

upon which, alone, the Union could stand. He was the unreserved advocate of the doctrines which soon after ripened into the frightful fruit of nullification. And had he, with his vast power, stood firmly up for the consequences to which his own principles infallibly lead, and thrown himself into the scale against the Union, this beauteous and glorious confederacy might now exhibit a pile of magnificent ruins. But an influence stronger than devotion to principles had in the meantime wrought upon him. The strongest element which his nature knew was elicited—his vengeance; and, falling back upon the broad track of constitutional truth which your illustrious guest had marked out and illuminated, he *wreaked his vengeance upon an enemy* by vindicating the Constitution. Impelled by iniquity to embrace a righteousness which another hand had provided. I said the storm was over and the country safe. I say so still. Much I know yet has to be done; but all that remains undone will follow, by necessity, from what has already transpired. The people have been deluded throughout the perilous career, which they have lately run, by the only instrument capable of deluding a people so free and enlightened. Every step that has been taken, has been under some striking *appeal to the imagination* of the country. The most alluring promises have been perpetually employed, and the most brilliant expectations excited. The nation has followed under a heedless satisfaction with the last and nearest object of delusion, without time, in the quick transition and succession of measures, to estimate or even to distinctly see the object of pursuit. Like a flashing meteor, the late President blinded his votaries by the intensity of unnatural light: they followed, they adored, but saw not, judged not. Few in history have acted upon that policy with success. He did with complete success. It was the vital principle of his power. It belonged to him only. It was *personal;* and although, to the reproach of the nation he has transmitted a succession, he has not transmitted to

the successor that quality. And the succession is broken for want of that quality. When the upshot of the elements of mischief which the administration had condensed was exhibited in May, 1837, the want of that quality was signally displayed. Instead of launching out, immediately on that event, into some still more striking promise, some intenser appeal to the public imagination, as his predecessor had uniformly done, the successor was panic-stricken and aghast. He hesitated and faltered. The impetuous career of popular delusion was arrested; the flood which gave it life was withheld. They rubbed their light-oppressed eyes and saw. It was all that was requisite from the first. They reasoned—the administration was ruined—it and all its appendages.

The nation is now substantially redeemed; because that is aroused and free to act which must ensure its redemption. If "my illustrious predecessor" had been at the head of affairs when that catastrophe occurred, his letter, written shortly afterwards, connected with his past acts, leaves no doubt as to the stroke he would have made. He would have declared a war of extermination against all banks; he would have appealed to the worst passions and the worst classes; he would have infused into his operations that thunder and lightning which had been so often employed to blind and astound; and, if the exigency required, would have insinuated, if not publicly proclaimed, that the good work of reform could not be accomplished, except by the plunder of eight hundred banks and the five millions of capital—not a literal plunder but a plunder under the form of law, as seductive to his followers, and as terrific to the country. He would have buried the excitement caused by that suspension, by a still higher excitement—buried, if he could, the very liberties of his country. His nature would have driven him to that resort.

From the conflict which might then have ensued, a merciful Providence has spared us. As public affairs

now stand, the Executive is forced to obtain support to his measures by addressing the understanding of the people. That necessity is fatal. He is of course overthrown. I pity him. What a spectacle! He is expected by his adherents to wield the weapons of his predecessor—he can not lift them! He is expected to wear *his* armor—the helmet alone enveloped him! And he staggers along—too insignificant for a magnanimous enemy's hostility—to the close of the most imbecile Administration which an American citizen has ever been required to acknowledge. Yes, the check that the Administration has sustained has overthrown it. The exertions of the late session of Congress have largely contributed to the certainty of its overthrow. It has been smitten. The Hydra has been throttled against the walls of the Capitol. The people stand ready, ready—with searing irons in hand—to burn out the very inmost roots of the monster! The work is done!

If the occasion allowed it, I should like to say something of old Massachusetts. I should like to rekindle my own patriotism at her altars. Here—on this very spot—in this very hall—the sacred flame of revolutionary liberty first ascended. Here it has ever ascended. It has never been smothered—never dimmed. Perpetual—clear—holy! Behold its inspirations here in your midst! Where are the doctrines of the Union and the Constitution so incessantly inculcated as here? Where are those doctrines so enthusiastically adopted as here? The principles of the Union and the Constitution—for us another name for the principles of a liberty which can not survive their overthrow—will, in after ages, trace with delight their lineage through you. The blood of freedom is here pure. To be allied to it is to be ennobled. *Massachusetts!* Which of her multitude of virtues shall I commend! How can I discriminate! I will not

attempt it. I take her as she is and all together—I give—*Old Massachusetts!* God bless her!

From Boston, Menefee returned to Kentucky, where he spent the remainder of the summer and autumn recuperating.

CHAPTER VII

IN CONGRESS (CONCLUDED)

On Monday, December 3, 1838, the Senate was called to order by Hon. William R. King, of Alabama, President pro tempore, and the House was called to order by Speaker James K. Polk of Tennessee.

Menefee began his last term in the House, as he had begun his first and second terms, by presenting a memorial or petition. Five of the other Kentucky Representatives did the same.

On December 28, 1838, Harry A. Wise, of Virginia, offered a motion to print twenty thousand copies extra of documents numbers 111 and 297 of the second session of the 25th Congress. These documents dealt with public defaulters. Edward Curtis of New York asked Wise to modify his motion to include ten thousand extra copies of the Secretary of the Treasury's report in relation to the defalcation of Mr. Swartwood. Wise modified. John O. DeGroff, also of New York, suggested twenty thousand copies of this latter document, and Wise agreed. C. C. Cumbreling, of the same State, presumed that Wise wished to have the documents consist of five or six hundred pages, which he thought it was very doubtful whether any one would read. He hoped that they would be printed separately and again Wise agreed. Mr. Garland of Virginia had offered a proposition asking that the Secretary of the Treasury report to the House the defalcation of collect-

ors and receivers of the public money that had occurred since October 1, 1837, the names of the defaulters, when and where they took place and what amount had been stolen.

Wise accepted this modification and further modified Garland's motion by requesting that the Secretary of the Treasury report to the House all the correspondence touching the defalcations of receivers and collectors of public money since the Department furnished document 297. Evidently the gentleman from Virginia was in a modifying mood on that day. Menefee arose and delivered the following speech, which is given in the *Globe*. S. S. Prentiss's reply to Menefee is so fine that it is also given here.

On Motion to Reprint Documents (111 & 297) in Relation to Public Defaulters. (December 28th, 1838.)

Mr. Speaker:

I am happy to witness such scenes as this in the House of Representatives. I can perceive a feverish anxiety in the party in power, which indicates that after all the enormities that have come to light, there are other and greater still behind.

Hence the anxiety to stifle debate, and quench the light which was beginning to be shed on dark transactions long hidden from the public eye. After the proof has come of iniquity after iniquity, which had been plunged like avalanches from the heights of power into the pure lake of our republican institutions, now that liberty is looking to this House for help, now comes a solemn tirade in the *Globe* against wasting time in this most villainous debate, and an appeal to the liege subjects of the throne at once to put a stop to it; and, while such intimation came from the offi-

cial organ, simultaneously there was an effort in the House to smother documentary light. It is vain to hope for longer concealment; the deeds of the party are rushing to the light with the resistless force of destiny. The petty excuses of economy will not answer the purpose; they have lost their charm; the public begin too well to understand the economy of the Administration. It might as well, at once, with arms crossed and hearts resigned, come up to that bar where the American people will pass on its deeds and award their due recompense. That people will embody the iniquities of ten long years, and, placing them on the heads of the victims, will stretch the sacrificial knife, and, calling on Heaven, will make one great expiatory offering to the God of Liberty.

I deny that the documents give a false statement in relation to defaulters; they only stated what appeared on the record; this is all they professed to do, and this is all they did. These commencing groans of detected guilt were as nothing; they were mere whispers, yea, sweet sounds, in comparison to the outcries of national agony that will soon fill the air as the whole truth comes to view. Come it must. Let it affect this party or that party, things have reached a point at which concealment is any longer hopeless. Whether these defaults are or are not an argument against the sub-Treasury—let them be even the strongest argument in its favor—still the people must have the truth. The truth will go like a two-edged sword; error must get out of the way, or be cut in twain. Away with this pitiful talk about the expense of printing a document! Let the people be no longer insulted by an open attempt to stifle the light and hide the truth from them. Have it they will, and have it all.

PRENTISS'S REPLY

Mr. Speaker:

I am as well pleased as the gentleman (Menefee) who has just taken his seat at witnessing the sensa-

tion in certain parts of this House at every fresh haul of truth from the great deep of this Administration's secrets.

The great oyster bed has not been disturbed for years, now, and I do not doubt that another grab will bring upon water larger and fatter oysters than any which have yet been opened. Yes, there are other fine fish below, which have not yet been hooked up or speared. I am for trying all ways to get at them, lines, nets, spears, harpoons; any means and all means I am for trying, so that by some means the fish may be made to appear above water. I am happy to perceive, from some symptoms of compunction on the other side, that the party is not as yet "desperately wicked"; they are not judicially hardened; there is some little nucleus of moral principle, around which better feelings may yet cluster, so as to leave a hope that they may still be snatched as brands from the burning. I had begun to think that the skin of this Administration was like that of the rhinoceros, insensible to all attacks, and proof against the keenest dart; but I begin to have a better hope. The *Globe* may admonish and warn and entreat, but it is in vain; the *Globe* can not stop this debate on corruption. It will go on; the nation will hear it. Gentlemen do not like this word "corruption"; but if I thought their ears were not callous, I would buy a starling, and have it taught to cry nothing but "corruption!" I would find the Administration when it lay asleep, and in its ear would halloo "corruption! corruption! corruption!" I would not, according to the advice of the gentleman from New York over the way, (Mr. Cumberling,) have the anatomical dissections confined to dead subjects; no, there are plenty of living ones whose imposthumes need the knife. I trust these documents will be published; I want them for two purposes; first for lessons of morality, and then as models of the King's English. My friend, (Menefee) has said they would cut like a two-edged sword; ay, like a *three*-edged one.

On December 29, Speaker Polk laid before the House a communication from the Secretary of the Treasury, in compliance with a resolution of the House of July 7, in respect to the donations of the public lands and the quantity surveyed, the plans for dividing it in its proceeds, the improvements most eligible in its present system of sale and with other matters of a character somewhat similar.

William C. Johnson of Maryland moved that this document be laid on the table, and five thousand extra copies be printed. Zadok Casey of Illinois moved that the Speaker's report be referred to the Committee on Public Lands. To the printing Mr. Casey had no objection. Menefee opposed Casey's motion on the ground that it was a subject that belonged to the States exclusively in their separate interests.

After further discussion, Casey's motion was voted on and lost, 130 to 57. Menefee, with all the other Kentucky Representatives, except John L. Murray, voted against Casey's motion.

The report was then referred to a committee to be composed of one member from each State, as Menefee had desired, and five thousand extra copies were ordered to be printed.

On Wednesday, January 2, 1839, Samuel Cushman of New Hampshire, asked leave of the House to make a statement in reference to the Secretary of the Treasury. Objection being made, Mr. Cushman moved a suspension of the rules, assuring the House that he would not occupy two minutes. The rules were suspended and Mr. Cushman made the following

statement: That on Monday last Henry A. Wise of Virginia offered a resolution proposing a select committee to investigate the conduct of the Secretary of the Treasury, and to see if they can find sufficient evidence against him to impeach him, and this committee was to be chosen by ballot. Mr. Cushman then went on to say that the Secretary would welcome an investigation, and began to eulogize him. At this point Menefee called him to order. Menefee then stated that Cushman had asked leave to make a statement, and he was making an argument. Cushman replied to the gentleman from Kentucky, "I have done." Sargent S. Prentiss of Mississippi inquired if the gentleman's argument was a subject of reply. This inquiry was greeted with cries of "Order, order!" Prentiss then asked leave to make a statement. Objection was made and Prentiss moved a suspension of the rules. The yeas and nays were then ordered and resulted in a tie—97 to 97—Menefee voting for Prentiss.

Wise then asked leave to ask the gentleman from New Hampshire whether or no his statement was made by the authority of the Secretary of the Treasury. Wise's request lost by one vote. The House then took up the reports from committees.

On January 7 Menefee, with Chambers, Southgate, and Murray presented petitions.

On the 9th the defalcation of Samuel Swartwood, late collector of the New York port, came up for discussion. C. C. Cumbreling, of New York, had moved that the part of Van Buren's message that related to the defalcation of

Swartwood, except so much as relates to a modification of the revenue laws, be referred to a select committee. Wise had modified his amendment by accepting, as a modification, an amendment offered some time ago, by his colleague, James Garland. Garland's motion was as follows: *"Resolved,* That a select committee be appointed, to consist of nine members, to be chosen by ballot, whose duty it shall be to inquire into the causes and extent of the late defalcations of the custom house at New York and other places, the length of time they have existed, the correctness of the returns which have been made by the collector, naval and other officers, and the deposit banks respectively; and all such acts connected with such defalcations as may be deemed material to develop their true character. *And be it further resolved,* That said committee be required to inquire into and make report of any defalcations among the collectors, receivers and disbursers of the public money, which may now exist; who are the defaulters, the amount of defalcation, the length of time they have existed, and the causes which led to them; and that said committee have power to send for persons and papers." Menefee and John Robertson of Virginia debated this resolution until a very late hour. The House then adjourned.

On the next day the question of public defalcation was again taken up. Wise had also asked in his resolutions that twenty thousand extra copies of documents numbers 297 and 13 be printed. Arphaxod Loomis of New York had a motion before the House to amend Wise's resolution, by striking out document

297, and print document 13, the one relating to Swartwood. William J. Graves of Kentucky moved a call of the House, and on this motion Menefee demanded the yeas and nays, which being ordered, resulted 95 nays to 88 yeas. So the call was not ordered.

The question then before the House was on agreeing with the amendment. Isaac H. Bronson of New York demanded the yeas and nays, which were ordered, and the amendment was rejected by the vote of 112 to 89. Menefee voted against it. Further consideration of the public defalcation was cut off by the expiration of the morning hour.

Monday, January 14, was "resolution day," and Menefee offered a resolution to the effect that the Committee on Revolutionary Pensions be instructed to inquire into the expediency of granting pensions to three Revolutionary soldiers, and of increasing the pensions of four Revolutionary soldiers, all living in his congressional district in Kentucky. Menefee was doing for those old soldiers as he would have had one occupying his place do for his own father, a soldier of the war of 1812, if he had been living and needed assistance.

On the next day the defalcation of Swartwood again came up for discussion. The question now was to strike from the proposition that part of it proposing to raise the committee by ballot and insert "*viva voce*." Hugh S. Legare of South Carolina addressed the House at length in opposition to the appointment of the committee by the chair. The debate was further continued by Menefee, Wise, and Prentiss, after which the House adjourned.

On January 17 it was finally agreed to elect the committee to investigate the Swartwood defalcation by ballot instead of by *"viva voce."* Men like William C. Dawson of Georgia, Henry A. Wise of Virginia, and James Harlan of Kentucky were chosen to serve on this committee. Menefee and Prentiss received only a few votes for places on the committee.

On the following day Wise offered a resolution to give the committee power to elect a clerk, to employ a printer to print for its own use its journal and other papers required to be copied for its members, and to also give the committee leave to go to New York or other places for the purpose of prosecuting its inquiries, and that the members of the committee be excused from attendance upon the House, until it shall have made its report.

Mr. Beatty of Pennsylvania and Charles G. Haynes of Georgia objected to this resolution. Wise then moved to suspend the rules, to allow of the motion being offered. The resolution was again read and then Beatty moved to adjourn. Menefee demanded the yeas and nays, but withdrew the call. The motion was negatived without a count, and Wise's resolution was finally lost.

On January 22 several committees made their reports and Menefee, from the Committee on Patents, reported, with an amendment, the Senate bill to renew the patent of Thomas Blanchard. The amendment was concurred in, and the bill ordered to a third reading.

After some executive communications had been passed on, the graduation bill, "a bill to reduce and graduate the price of the public

lands," was taken up. Zadok Casey of Illinois moved to refer it to the Committee on Public Lands. Lewis Williams of North Carolina, "the father of the House," moved to refer it to the select committee of twenty-six on the public lands, and asked for the yeas and nays, which were ordered. Menefee made a few remarks in favor of sending the bill to the select committee of twenty-six, as proposed by Mr. Williams. Casey followed Menefee and said he had not been able to hear all the remarks of the gentleman from Kentucky, but from the whole tenor of the debate it was obvious that the only object of the motion to refer this bill to the select committee was to defeat the passage of the bill at this session. This was a measure of deep interest to the new States, and indeed to the whole western country. It was a subject that legitimately belonged to the Committee on Public Lands, one that had heretofore received the attention of that committee, and if it was the intention of the House to act on the subject at this session, it should go to that committee. Casey spoke at great length, giving his reason why the bill should go to the Committee on Public Lands instead of the select committee.

The debate was continued by Charles G. Haynes of Georgia and Joshua L. Martin of Alabama, who advocated Casey's motion, and Menefee, and John Robertson of Virginia, who advocated Williams's motion. The bill was finally tabled by the vote of 102 to 97, with Menefee voting affirmatively. On the next day an attempt was made to reconsider the mo-

tion to table the graduation bill, but without success.

On motion of Menefee, the bill to authorize a renewal of the patent to Thomas Blanchard was taken up on its third reading. Millard Fillmore of New York, Benjamin C. Howard of Maryland, and Menefee, with several other Representatives, made some remarks on this motion. Howard then moved that the bill be postponed until Friday next, and then be printed. Menefee demanded the previous question. Ratliffe Boon of Indiana moved to lay the bill on the table, which was not agreed to. The demand of Menefee for the previous question was then seconded. The main question being on the passage of the bill, William Montgomery of North Carolina asked for the yeas and nays, which were ordered. The question was then taken and resulted—yeas 89, nays 72. So the bill was passed.

On January 28 Menefee offered the following resolution: "*Resolved*, That the Secretary of the Treasury be, and he is hereby directed to communicate to this House a statement of the sums respectively awarded, under the act of July 13th, 1832, for carrying into effect the convention with France of July 4th, 1831, in favor of persons from whom sums of money were due to the United States; the amounts to which they were respectively entitled under the ratable proportions provided for by said act; the amounts respectively paid to them; the amounts respectively entered to their credit by reason of the deductions provided for in said act; why, if the fact be so, said persons did not receive the full benefit of said act, either

by payment or credits on their debts to the United States; whether an agent was employed by the Treasury Department to ascertain the persons thus indebted, and if so, who he was, on what terms employed, and, if paid, to what amount, how, and by what authority: and whether all the facts necessary to enable the Secretary to make said deductions did not previously exist on the files of his department, and were not actually furnished for that purpose by an officer thereof under his direction."

On February 4, Underwood, Graves, and Menefee, Kentucky's leading Representatives in the 25th Congress, presented petitions.

Ten days later, C. C. Cumbreling of New York asked leave of the House to present and lay on the table a memorial from Collector Swartwood, complaining of the proceedings of the select committee on defalcations. Cries of "No! No!" greeted his request. Cumbreling replied, saying that he "must then move a suspension of the rules for it as a matter involving great injustice to the collector of New York, and I now ask for the yeas and nays." Menefee asked Cumbreling what the memorial was. Cumbreling replied to Menefee, saying he would explain if the House would allow him to do so. Again cries of "No! No!" greeted the Representative from New York. Mark H. Sibley of New York intimated that he should prefer to have it read, as he wanted to know upon what he would be voting. Cumbreling replied to his colleague, and said that, with the consent of the House, he would make a brief statement of its contents Renewed cries of "No! No!"

met his offer. Abraham P. Grant, also of New York, moved a suspension of the rules, so that Cumbreling might have leave to make the statement; but being included in the motion already made, he did not press his request. Menefee then desired to know if this was a memorial from the collector of the port of New York protesting against the action of the select committee of the House. Cumbreling replied as follows: "Not protesting, but merely stating his own case, and asking the House to take measures to prosecute the inquiry in relation to a witness." Menefee began to reply: "That is to say, Mr. Speaker," at which point his voice was completely drowned out by the loud cries of "Order!" and the *Globe* reporter heard nothing more that Menefee said—if he said anything more. John Chambers of Kentucky expressed a hope that the opposition to presenting the memorial would be withdrawn. The question on the suspension of the rules was then taken, and it was voted not to suspend them, by the vote of 124 to 73, Menefee and Prentiss voting in the negative.

On February 18 Cumbreling asked the House to take up the bill to extend the time of the act authorizing the issue of Treasury notes until May, and to issue the unissued balance. Edward Stanley of North Carolina objected. Menefee said that he should not oppose this bill, but its necessity showed the fallacy of the report of the Secretary of the Treasury on the state of the finances. Sherrod Williams of Kentucky demanded the yeas and

nays upon the passage of the bill, which were ordered, and the bill was passed by a vote of 102 to 88.

George N. Briggs of Massachusetts moved that the title of the bill be so amended as to read, "an act to revise and extend," the act authorizing the issue of Treasury notes. On motion of John P. Kennedy of Maryland the House adjourned.

On February 19 there appeared in the *Globe* Dr. Alexander Duncan's attack on Edward Stanley of North Carolina and William W. Southgate of Kentucky.

On the 21st Sargent S. Prentiss of Mississippi introduced a resolution saying that if Duncan was the author of the attack on the two gentlemen that he ought to be expelled from the House. Clerk Garland then read the publication in the *Globe* of the 19th. Prentiss then commented on the article at length, and, when he had finished, Duncan arose and admitted that he was the author of the attack. Prentiss was followed by Daniel Jenifer of Maryland, who thought as Prentiss did. Duncan followed Jenifer and stated that his retort to Southgate and Stanley was warranted, as they had first attacked him. Joseph L. Tillinghast of Rhode Island moved that Prentiss's motion be tabled but it was lost by the vote of 91 to 83. It was then that Menefee arose and delivered one of the most sarcastic speeches ever delivered in the National House[1]—"The Denunciation of Duncan."

[1] Speech in Baltimore *Patriot* of February 21, 1839, reported by a Washington correspondent

He at once began to roll out the sentiments of his most eloquent rebuke with a fervor and potency that I have never known surpassed. They made his pulse quiver with emotion. The effect on the victim himself was most striking. He first seized a pen and began to take notes; and then with a desperate effort looked up, and around at his chastiser—but another sweep of terrible words came upon him and his head sunk in dismay. Dante says somewhere, "Even in the wilderness the lion will tremble, if he hears the voice of the just man." Mr. Menefee realized this idea, though I have no notion of comparing Duncan to this noble monarch of the forest. Mr. Prentiss, in a subsequent part of the debate, was nearer the point when he said that his friend from Kentucky had stripped the *lion's* skin from the body of the *ass!*

In the very first sentence Menefee placed Duncan forever beyond the pale of "honor." "We are told that the member considers himself amenable to the code of honor. Now I desire that that code shall not be polluted; and I here say, in my place, that from first to last, in the whole business of this infamous production, there is not one single step the member has taken, in which he has not shown an entire destitution of the principles that regulate men who acknowledge the obligations and responsibilities of that code. This must be obvious to every man whose heart beats a single stroke to honor."

Menefee then reviewed and commented on all the circumstances of this transaction as given by Duncan himself; and especially dwelt on Duncan's declaration of the dire necessity that impelled the publication, and the admission that Messrs. Stanley and Southgate had insulted him. He spoke here most directly and pointedly. "Where was the gentleman's valor then? Where was his honor? Smarting under these indignities, as he acknowledges, from the members, why did he take in his hand the redress, which he says he expected them to take for his retort? He admits he

was inexpressibly grieved by these 'insults,' but instead of making the call of their authors, which after his professions and declarations and boastings, he would have made if he had had one single fibre of honor in his heart, he sits deliberately down, and collecting all the epithets of abuse, calumny, and vituperation, pours them out, in glorious vindication of his *honor!* And then he comes here boasting of this dignified act as the most glorious achievement of his life; and talking as if it restored him with all the insults and indignities still resting upon him unrepaid, to rank among men of honor—as if it made him again a peer."

The eloquent Kentuckian pressed home upon Duncan the fact that he had withheld his publication until the Anti-Duelling Bill passed, with such force, that he started up suddenly and attempted an explanation. He said the communication had been ready for two weeks.

"Ready for two weeks and yet it never saw the light until the Anti-Duelling Bill became a law!" The retort was responded to with clapping of hands and other manifestations of applause in the galleries. The Speaker declared that if the disorder was repeated the galleries should be instantly cleared; but the cries, "No! No!" were so general and loud that the point was not pressed.

Duncan, who was still on the floor, intimated a desire to speak, and Menefee permitted him. He made a remark in which he applied his favorite words of "false and calumnious" to the allegation that he had wished to shield himself under the Anti-Duelling Bill.

Mr. Menefee replied without the slightest hesitation—but with a *coldness of disdain* more effective than the strongest passion, "The day for vindicating honor by offsets and compromises to attacks from such a quarter, is gone! The member from Ohio whenever the principles of honor rule, stands *estopped, disfranchised, self-immolated, crucified. The nail has been*

driven by himself through his own vitals. He has exhibited a signal instance of seeking redress by coolly and deliberately sitting down to concoct something more vituperative and abusive by way of answer than that with which he had been assailed."

Never did detected meanness writhe so under the full gaze of upright and generous men, as now when Menefee presented, in detail, piece by piece, the whole of this individual's conduct toward Messrs. Southgate and Stanley. He was on the rack. At last in the very agony of his deep humiliation, he suddenly started to his feet and began to speak. This disorderly interruption of the member on the floor was instantly met with such loud cries of order, that I could not distinguish his first words.

Mr. Menefee, in a high piercing tone, exclaimed, "Let him go on," and took his seat. But the whole House was so impatient of the interruption, and probably had already been so disgusted with the exhibition already made of impotent blustering, that Duncan could not be heard for a while.

The Speaker asked Menefee whether he yielded the floor. Menefee assented. Duncan instantly employed the occasion thus granted by the courtesy of his chastiser, to express some affected contempt for Menefee, and then applied to him some such choice words as "puppy," "fake," et cetera, et cetera. The House was in an uproar immediately, the Speaker and many members calling loudly to order.

Mr. Menefee rose. He appeared the coolest man in the whole body. The only sign of emotion was an intense paleness which I never saw on that masculine contenance before. A smile, playful, beautiful, brightened it all up for an instant; but soon gave way to looks of the greatest haughtiness and scorn. Then came the sentiment with which a man of true honor and genuine courage must look down from his elevation on vulgar and swaggering ribaldry. Fixing his eye on Duncan, he said, "There was a time"—the

Speaker here called out, "The gentleman from Kentucky must address the chair!" "How considerate is Mr. Polk to administer this relief:—The fact of a just and virtuous accuser is terrible to the wicked." Mr. Menefee turned to the chair: "Mr. Speaker, there *was* a time when if the *gentleman* from Ohio—I say the *gentleman*—I am a man of *forms*, Mr. Speaker: he will not think I am serious in thus designating him—when if he had uttered such language as has fallen from him in reference to *me*, it would have created a sensation here—yes, sir," continued Mr. Menefee, laying his hand on his breast—"it would have fallen like a thunderbolt among the sparks which honor emits! But, sir, how is the case *now?* Every imputation from such a quarter, sir, falls to the ground *harmless stingless, pointless*, an object of general loathing and disgust. From the moment after all his boastings and professions, he allowed an acknowledged insult to pass unredressed, his name was expunged from the scroll of honor, if indeed it was ever inscribed there!"

This is, as well as I can recollect, the language Mr. Menefee used. But I can give you no idea of the manner, nor of the impression it produced on the House—on those who had clustered together in the aisle and passages near him and on the crowds in the galleries.

This speech, in manuscript notes, taken in long hand by a person present in the House, is in the possession of the Menefee family. It is so mutilated and disconnected, however, that it could not be used in this book.

After this terrible denunciation the debate was continued, as the House refused to table Prentiss's motion. Prentiss began the fight to expel Duncan, and, with the exception of Menefee, conducted it almost single handed.

On the next day, on the motion of Sherrod Williams of Kentucky, the whole Duncan affair was laid on the table by the vote of 117 to 94, Menefee and Prentiss voting, of course, in the negative.

On Friday, March 1, the Maine Boundary question came up for discussion. It was a discussion between the State of Maine and the Province of New Brunswick over the northeastern frontier. The United States did not understand that the territory in question should remain in Great Britain's jurisdiction until the final settlement of the boundary question. Both countries claimed that the question could be satisfactorily arranged by a friendly discussion.

The House went into the committee of the whole on the state of the Union, with Levi Lincoln of Massachusetts in the chair. The title of the bill was: "A bill giving the President of the United States additional powers for the defense of the United States in certain cases, against invasion, and for other purposes."

Francis W. Pickens of South Carolina moved to strike out the second section of the bill, which gave the President power to raise twenty new regiments. John Robertson of Virginia suggested a modification of the first section, so as not to assume that Great Britain "set up a claim" to exclusive jurisdiction. Menefee wished the phraseology made so clear that the Executive should visit an occupation of this territory, either on the part of the government of Great Britain, directing and acting on her own responsibility, or through her pro-

vincial authorities. Robert Craig of Virginia and Benjamin C. Howard of Maryland did not agree with the gentleman from Kentucky. At the evening session, Menefee, following Millard Fillmore of New York, "spoke with great earnestness on the necessity of vindicating the national honor."

MENEFEE'S SPEECH ON THE MAINE BOUNDARY QUESTION[1]

Mr. Speaker:

The debates on this question have been characterized by such ability and fullness of detail as to spare me the necessity of going at length into the particulars of the controversy between the two nations, or even into the main points on which the title of the United States to the territory in dispute is founded. I propose but to state the conclusions to which I have come respecting this controversy—conclusions drawn from an anxious and solemn consideration of all the information attainable through the protracted correspondence between the two nations, their debates in Parliament and Congress, or other sources within my reach, and to express my opinion upon the measures which the existing emergency demanded. That the whole territory in dispute belonged rightfully to the United States, under the treaty of 1783, I do not for one instant hesitate with the utmost confidence to pronounce.

It is demonstrable; it has been already demonstrated. Nor, sir, do I hesitate, with equal confidence, to pronounce that the claim to that territory on the part of Great Britain is altogether unfounded, and attempted to be supported by arguments too untenable and frivolous, in my opinion, to comport with either the dignity or candor of a great nation. The right, therefore, being most manifestly with the United States, the party who contests it on the palpably un-

[1] Speech in *Congressional Globe*.

sufficient grounds assumed by Great Britain must be held answerable before the world for whatever evils so unfounded a pretension may tend to produce. All nations are tenacious of territory; and territorial disputes are, from their nature, more likely than almost any other to engender mutual irritation and exasperation, in which both parties are liable to err. But the fault, and consequent responsibility for it all lie with the party which, by the assertion of an unjust claim, thus exposes both to such consequences. It is in this view only that I now consider the question of *right* to the disputed territory, and not as furnishing a reason for the measures proposed now to be taken by the United States; for these measures flow from other reasons than those of conviction of the right, and of a fixed resolution to maintain it. They flow from an emergency which has lately arisen—new and peculiar.

Great Britain, sir, claims *exclusive jurisdiction* over the disputed territory until the dispute shall have been settled. Such a claim, urged merely *in negotiation*, would, I think, be unreasonable enough. Assuming that the right is doubtful (which it is not), it is manifest that the *claim* merely as such, of one nation is entitled to no higher respect than of another. It cannot be presumed, in advance of negotiation and adjustment, that the claim of either is superior. Independent Powers must, in this respect, be regarded as equals. To concede that the undivided pretensions of either shall be invested with a validity and force denied to the other, is to concede away, in some sense, an essential attribute of sovereignty. Yet Great Britain, by her claim to exclusive jurisdiction over the subject of dispute until it shall have been adjusted, arrogates to herself, undoubtedly, this inadmissible superiority over the United States. Nor is the reasoning by which this claim is attempted to be maintained less objectionable than the claim itself; a reasoning founded on the assumption of the principle so humiliating to the United States, that their independence, nationality, territory, were derived from Great Britain by *grant* imparted by

the treaty of peace of 1783; and that, therefore, Great Britain is to be presumed to remain in possession until there has been a transfer in fact. Sir, the treaty of 1783 *granted* nothing—neither independence, nationality, nor territory; that treaty but *acknowledged* them. For the foundation of all their inestimable rights, the United States point not to the treaty of peace, but to the glorious war of independence which preceded it—to occupation: and to the deeds of the noblest ancestry that ever bled in the cause of freedom—to conquest. Sir, I repeat, Great Britain *granted* nothing; she but acknowledged and recognized what the United States themselves had accomplished—without her and against her.

This claim, therefore, to exclusive jurisdiction, until the termination of the controversy, if urged by Great Britain, on the general reasoning hitherto advanced in its support, in the most unexceptionable form of negotiation, it would be the duty of this Government, under every obligation of interest and honor, to repel. But, sir, Great Britain of late reposes her claim to exclusive jurisdiction upon another foundation, which, if existing as represented by her, exhibits it in an imposing if not irresistible light; which is that the United States, in the progress of the negotiation, had conceded, *by explicit agreement*, the right now contended for. This alleged agreement is asserted, in positive terms, both by the provincial authorities of New Brunswick and the British Minister here. Sir, I (in common, I believe, with the whole country) was surprised, absolutely astounded, by this annunciation, so confidently made, and from sources so respectable, of the existence of such an agreement. If this Government had so agreed, the nation was of course bound, in faith and honor, to respect the agreement, no matter how injurious to our interests or humiliating to our character. Sir, I cannot express the intensity of the solicitude I felt to hear the response

which our Government should make to this alleged agreement. Could it be possible that any Administration had been so unmindful of interest, and regardless of honor, as to have made such a concession? This suspense was of short duration. I now rejoice, sir, profoundly, and with patriotic thankfulness (as doubtless the nation does too), over the prompt and unequivocal assurance of our Government *that no such agreement does, or ever did, exist.* The British Minister is respectfully but earnestly invited to point to the alleged agreement. He has failed to show it; he cannot show it, nor can his Government. Sir, it does not exist, and we are left to hope that its existence has been urged under an unintentional misconception of the negotiations between the two Governments. Unsupported, therefore, by this pretended agreement, the claim of Great Britain to exclusive jurisdiction is thrown back upon the untenable and wholly inadmissible reasoning in which it originated.

But, sir, if the grounds which this Government has invariably assumed in resisting the claim by Great Britain to exclusive jurisdiction needed additional support, it is furnished by an explicit understanding between the two Governments *that neither party should exert exclusive jurisdiction* pending the negotiation, but should be confined to the portions of the territory in dispute, then in the possession and under the jurisdiction of each, without the right to enlarge their then existing possession of jurisdiction in any respect whatever. This understanding (unlike the agreement set up by the British functionaries) admits of being pointed to and shown. It has been shown. The correspondence shows it. Nor can its existence be contested. This understanding, by itself, arms the United States with an argument against the claim of Great Britain (if the question is to be submitted to the arbitrament of argument) entirely irresistible, so long as the existing understanding shall remain unrescinded.

But, sir, it appears that argument and negotiation are to be discontinued by Great Britain, and the more cogent instrumentality of arms to be substituted in the enforcement of this claim to exclusive jurisdiction. It is announced, officially and unconditionally, by the provincial authorities of New Brunswick that they have peremptory instructions from the British Government to enforce this claim by arms, if arms be necessary, and that those instructions shall, at all hazards, be executed, if the powers of the British arms in all the provinces are adequate to their execution. Sir, this new manifestation of purpose wholly alters the aspect of the controversy. It proposes to deprive the United States of the advantages which they obviously possess under an original view of the respective claims of the two nations, unaffected by any agreement or understanding. It proposes to trample under foot an explicit understanding, solemnly and formally recognized, forbidding the pretension now urged. It proposes, finally and worst, to withdraw the adjustment of his claim from the field of reason and negotiation, and to adjourn it over to the field of arms! This, sir, is the new position which Great Britain has chosen to assume. It is altogether her act. She has a right to assume that or any other position she pleases with respect to this controversy; we cannot prevent that. The question now, sir, is, "How shall the United States meet this new position?"

Mr. Speaker, I am fully sensible of the comparative insignificance of the territory in dispute. I have, I trust, duly weighed the deep calamities of war in any form, and especially between two nations as powerful and as closely connected in commercial and other relations as Great Britain and the United States. I know that this nation is unprepared for war. I believe I have soberly weighed all the motives to peace; nor have the dangers to which war must ever expose institutions like ours being unconsidered. All these things have been calmly and resolutely looked in the

face; and, in the full view of them all, I stand in readiness to repel the pretensions of Great Britain by reason and negotiation—peaceably, if she is disposed to reason and negotiate peaceably; and in perfect readiness to repel her pretensions by arms, if she is disposed to compel us to that resort! Sir, if Great Britain persists in backing her pretensions by arms, but one alternative is left us—dishonor or war; and, sir, dishonor the spirit of this nation will not endure. Choice of peace or war is with Great Britain. She will manifest her choice of war by persisting to execute the instructions avowed by the provincial authorities. For, sir, to the peaceable execution of these instructions this country cannot submit and never will submit; it is the price of its honor to submit. In such an event war is inevitable; on our part a righteous war, upon which the smiles of the God of battles may be confidently invoked. If Great Britain wills war, let war come! This nation, armed in the righteousness of such a cause, has nothing to fear—all to expect.

In the present posture of this controversy, sir, there is no occasion, nor is it proper to animadvert upon the course of our own Government for several years past, in the conduct of these negotiations. That unjustifiable delays have been submitted to, may probably be shown. False steps on minor points may have been occasionally taken to our prejudice. This would but afford cause of complaint by the nation against its own Government; whilst at the same time, the position of Great Britain is rendered, by that cause, still more indefensible. Nor would this be an appropriate occasion for arraying the wrongs—still unredressed—which this country has suffered from Great Britain by encroachments on other portions of our territory, or the unatoned outrage upon our territory and the lives of our people in the affair of the *Caroline*. These are subjects which stand open for discussion on their own merits, and in the mode which becomes them. The

present emergency alone is now to be looked to, and provided for—by itself and for itself; and the measures of legislation taken by Congress should regard the emergency in that light. I am happy, sir, that the Committee on Foreign Relations, to which these momentous subjects were committed, have so regarded it. I agree with them generally in the reasoning of their report—entirely agree with them in its tone.

With respect, sir, to the bill reported by the committee, I regret that it is not, in my opinion, wholly free from objection. The second section, providing for so large a contingent augmentation of the regular force is, I think, unnecessary at the present moment. It confers vast discretionary powers upon the President. Those powers may not be abused, it is true; but it is no less true that they are liable to abuse, and may be abused. It is in seasons like this that free nations are most apt, in their efforts to guard against dangers from abroad, to forego their accustomed jealousy of power, by erecting precedents of discretion which plant the seeds of fatal dangers from within. I trust that the committee themselves, will, on reflection, perceive the inexpediency of this provision, and decline further to press it. Nor should I have recommended as the committee have done, a special embassy to England. I am not sure that the present posture of affairs is such as, in strict delicacy, to require or even warrant it. Yet in the spirit of forbearance and peace which I hope may ever characterize the counsels of this country, I shall interpose no resistance to the measure, and shall be happy in the expectation that it, amongst other measures, may conduce to a speedy termination of this unfortunate controversy, peaceably and honorably to both nations.

I have but to add, sir, the expression of my unaffected and profound desire for peace; and at the same time, my conviction, not less unaffected and profound, that the enforcement by arms of the late pretensions of Great Britain, as threatened by her provincial authori-

ties, is incompatible with honorable peace. If Great Britain, in violation of our rights, in disregard of our own solemn engagements, shall precipitate a war, this nation, I believe, will, as one man, brace itself for the conflict. Other gentlemen better understand than I do the spirit existing in their respective sections of the Union. The nation has, in the history of the past, a guarantee that the region in which Kentucky is situated will be found promptly obedient to the calls of the national honor. Satisfy them that peace is dishonorable, and they are for war. They will not inquire how much or how little territory is involved in the dispute, they will not surrender an inch, if it involves a sacrifice of the national honor. They will never consent to graduate honor by interest. They fought the battles of the country in the late war, from the Thames to the Balize, over questions wholly maritime, in which they had no direct interest. Yet, sir, the national honor demanded that war; and maritime in its origin as it was, it found nowhere in the Union more ardent and steadfast votaries than were found a thousand miles in the interior. Sir, as they were prompt then, so they will be prompt now to vindicate to the utmost, and to the last extremity, the honor of the country. They will not now calculate, as in times past they never calculated, the sacrifices which such a contest may involve. They regard the maintenance of the national character and honor as paramount to all other considerations; for they see in it the only means of enjoying, in security, any of the inestimable blessings which Heaven has plainly reserved for their country. For this they deem no sacrifice too dear. Money, property, blood—count and measure it all—it is yours, freely—if the vindication of the national honor demands it!

Francis W. Pickens of South Carolina replied to Menefee and said that national inter-

ests ought to be looked at as well as national honor. He deprecated war, and thought peace might be procured, but was prepared to go any length when war was inevitable.

Prentiss replied to Pickens, defending Menefee's position, and "treated with ridicule the idea of looking at interest when honor was at stake." The debate was continued until midnight, when it was decided to table it until the next morning.

On March 2 the bill was passed, with the second section stricken out.

On Sunday, March 3, in a few well-chosen words, Speaker Polk took leave of the House, and at ten o'clock adjourned it *sine die*. Thus ended the 25th Congress, and Menefee came back to Kentucky to meet Henry Clay, the dream of his boyhood, the ambition of his manhood, and then to die.

CHAPTER VIII

RETURN TO KENTUCKY

In the Maysville *Eagle* for March 13 the editor, Lewis Collins, the beginner of the greatest of Kentucky histories, noticed that on Saturday, March 9, R. H. Menefee, in company with Clay, Crittenden, Chambers, and Hawes, reached Maysville, Kentucky, on their way back to their respective homes. All of them, with the exception of Clay, who was detained a day on account of illness, departed for their homes immediately, and Menefee, Crittenden, and Hawes reached Lexington on the same day.

Menefee, with his wife, did not return to Mt. Sterling, but decided to live, in the future, in Lexington. They boarded with Mrs. Menefee's mother, Mrs. Matthew H. Jouett, at number 46 East Main street. Matthew H. Jouett, the greatest of Kentucky artists, had died in 1827, and had left his family very little money. His widow was compelled to keep boarders, and during the years of 1839 and 1840 she had as boarders Menefee and his wife, Oliver Frazer, the Kentucky artist who was to paint a picture of Menefee that has contributed toward his immortality, and his wife, and Col. William R. McKee, a gallant Mexican soldier, who fell at Buena Vista, and his wife. These three couples, Mrs. Frazer used to tell her daughter, formed "a delightful dinner party."

On the 1st day of April, 1839, Menefee quali-

fied as an attorney and counsellor at law, at the Fayette Circuit Court.[1] Judge Aaron K. Wooley was on the bench.

As Menefee had been in politics for three years, and had received only one dollar and a half a day as a representative in the Kentucky House, and only five dollars per day in the National House, he had been able to save very little money, and now he was determined to practice law and increase his bank account. As a prominent Kentuckian has said, Menefee had learned how it pays to eschew politics and stay at home, and, although he was to be identified with Kentucky politics for the next year, he refused, as the Flemingsburg *Kentuckian* said, to make the race for the 26th Congress. "Mr. Menefee declines to run for a seat in the next Congress. This will certainly be a matter of no little regret to the whole country. During his term of service in the last Congress of the United States, Mr. Menefee has had but few equals and scarcely any superiors in point of ability. He has proven himself a statesman of the very first order and a Representative faithful to his constituency, and untiring in his efforts to advance the best interests of our common country. Considerations of a private nature are alleged as the reasons for declining a canvass at the ensuing election."

Richard H. Menefee practiced law at the Fayette bar during the summer of 1839, and he built up a lucrative practice. During the months of June and July he had his professional card in the Frankfort *Commonwealth.*

[1] Record Book No. 26, in Fayette Circuit Clerk's Office.

It appeared at the top of the column, which was devoted to professional notices, and simply stated that he had resumed the practice of law, and would attend, besides the courts held in Lexington, the Court of Appeals, the Federal Court, and the Circuit Courts of Bourbon and Scott Counties. Below Menefee's card appeared such distinguished Kentuckians as John Calhoun and James Harlan, two of Menefee's colleagues in the 25th Congress, who, like Menefee, had given up politics for law. John J. Crittenden announced his intention of practicing during the summer, in Frankfort. Three men, who had been or were to be, Governors of Kentucky—William Owsley, James T. Morehead and James F. Robinson,—also had their notices in the *Commonwealth*. So it may be easily seen from the above list that Kentucky had lawyers in those days.

On August 12, 1839, the Whig Central Committee, composed of Benjamin W. Dudley, Gen. Leslie Combs, Harry I. Bodley, Richard Pindell, and Richard H. Menefee, which was appointed in 1838 at a meeting held in Frankfort, over which Governor Thomas Metcalfe had presided, published in the Kentucky newspapers an address to the Whigs of Kentucky, urging the appointment of delegates to the Whig National Convention which was to meet in Harrisburg, Pennsylvania, December 4, 1839, and to the Whig State Convention, which was to meet in Harrodsburg, Kentucky, in August of the same year. The committee urged "harmony and concert of action as indispensable conditions to the success of our cause, lying at the foundations of both."

The Harrodsburg State Whig Convention met in the old Baptist Church, August 26, 1839. Gen. Leslie Combs was appointed temporary chairman and he called the meeting to order. About four hundred delegates, representing fifty-nine Kentucky counties, were present. Governor Thomas Metcalfe was elected permanent chairman of the convention, and he addressed the convention after the counties had been called. Fayette County sent eighteen delegates, among them Richard H. Menefee, Henry Clay, Jr., R. S. Todd, Robert Wickliffe, Jr., and Gen. Leslie Combs. From Woodford County, Thomas F. Marshall and William B. and George B. Kinkaid, and from Mercer County, James Harlan and John B. Thompson. These were the leading men of the convention.

The afternoon was taken up with various resolutions as to how they should proceed to nominate the gubernatorial candidates, and, after much discussion the convention adjourned to meet the following morning at nine o'clock.

The next day James Harlan nominated Robert P. Letcher of Garrard County for Governor, and O. G. Cates, Crittenden's law partner, nominated William Owsley of Franklin County. The vote resulted in forty-eight votes for Letcher and twenty-six for Owsley. Letcher was then declared to be the Whig candidate for Governor of Kentucky. John L. Helm of Hardin, Archibald Dixon of Henderson, John F. Todd and J. R. Skiles of Warren, Manlius V. Thompson of Scott, and Robert S. Todd of Fayette were

then nominated for Lieutenant-Governor. Menefee rose and said that he was desired by Mr. R. S. Todd to express his thanks for the honor done him by the gentleman who had nominated him, but that he must ask him to withdraw his name from before the convention. James Shelby of Fayette immediately arose and withdrew his name. Robert S. Todd had two daughters, one of whom married Abraham Lincoln and the other one married Ninian Edwards. After several ballots had been taken, Manlius V. Thompson of Scott was unanimously nominated for Lieutenant-Governor. Chairman Metcalfe then appointed a committee to inform Letcher and Thompson of their nomination.

The delegations were ordered to select their presidential elector, and a committee of thirteen, one from each Congressional district, was also appointed to select two delegates-at-large. The electors-at-large were Richard A. Buckner and James T. Morehead. The Fayette delegation chose Richard H. Menefee as the presidential elector for the tenth congressional district. Two of Menefee's old congressional colleagues, James Harlan and William W. Southgate, were chosen electors for their congressional districts.

After the electors were chosen the convention called on Thomas F. Marshall, William J. Graves and Richard H. Menefee to address them, "which they did in a most forcible and appropriate manner."

A young man, who was afterward to become the most distinguished criminal lawyer that

[1] Lexington *Intelligencer,* September, 1839.

Kentucky has produced, heard Menefee deliver his speech. To-day Capt. Philip B. Thompson of Harrodsburg, nearly ninety years of age, remembers Menefee's speech. He told me some time ago that it was the greatest political speech he had ever heard. The only one he ever heard that was comparable to it was one that Henry Clay delivered when he was making his last race for the Presidency. He also told me that Henry Clay, Jr., reminded him more of Menefee than any other orator he ever heard.

After passing resolutions of respect on the death of Governor James Clark, who had died on August 27, 1839, the convention adjourned, and Menefee returned to Lexington.

On September 5 Lieutenant-Governor Charles A. Wickliffe, according to the Kentucky Constitution, took the oath as Governor of Kentucky. Clark died at a time when Kentucky needed a strong man in the executive chair, as she had never needed one before or since. The terrible financial panic, which was to continue for the next year or so, was at its very height. But Wickliffe probably did all in a Governor's power to give his people assistance.

At a meeting of the Fayette County Whigs, held on October 14 to select a delegate to the Whig National Convention which met at Harrisburg, Pennsylvania, December 4, 1839, Gen. Leslie Combs was chosen to represent the tenth congressional district. Menefee had been away from home so much that he probably declined to go, or his health may have begun to cause him anxiety at this time. Governor

James Barbour of Virginia was chosen president of the National Convention, and Governor Thomas Metcalfe of Kentucky was chosen as one of the vice-presidents. Governor Barbour made an eloquent speech of acceptance, and in the following words stated the principles upon which the Whig party was founded: One presidential term, the integrity of the public servants, the safety of the public money, and the general good of the people. Surely a very good platform, we moderns will admit.

On December 6 the committee appointed to vote on the candidates for President and Vice-President of the United States reported, through Governor John Owen of North Carolina, that 254 ballots had been cast and that William H. Harrison had 148, Henry Clay 90, and Winfield Scott 16. Harrison was then declared to be the convention's choice for President. One of the delegates from Kentucky, Mr. Banks, assured the convention that "Kentucky loved the country more than she loves Clay," and that the State would give her electoral vote to Harrison. Gen. William Preston, also of Kentucky, arose and asked General Combs to read a letter from Clay, in which the "Commoner" urged union among Whigs and to disregard his position. He referred to General Harrison in eulogistic terms. John Tyler was nominated for Vice-President without opposition.

After passing a resolution asking the Whig young men of the country to assemble in Baltimore in May, 1840, "for the purpose of advancing the cause of sound principles," the convention adjourned without adopting a plat-

form. The Whigs had abandoned Henry Clay for the purpose of uniting the Anti-Masonic and other opposition elements, and had nominated William H. Harrison of Ohio, who was to lead them to victory.

On Saturday evening, January 11, 1840, the Whigs of Lexington held a meeting in the court-house, for the purpose of sounding the local Whigs on Harrison. Dr. Joseph D. Chinn was elected temporary chairman, and Robert Wickliffe, Jr., D. M. Craig, and W. F. Taft were appointed as a committee to report proper officers for the meeting and suitable resolutions for its consideration. Mr. Wickliffe reported the nomination of James E. Davis for president and Richard H. Menefee as one of the vice-presidents, which was concurred in.

Editorially, D. C. Wickliffe, editor of the Lexington *Observer and Reporter,* said that this meeting "was one of the largest and most enthusiastic assemblies that ever took place in this city." He had announced the meeting in his paper that morning, and, although the weather was very inclement, men from all classes of society were present. This was always the case when it became known that Richard H. Menefee was to speak. The court-room was crowded to its utmost capacity by 6.30 o'clock.

Wickliffe the younger addressed the meeting and painted a brilliant biographical sketch of Harrison, and concluded by an appeal to the Kentucky Whigs to support him. He was followed by Menefee, "who occupied the attention of the meeting for upward of an hour, in a masterly and eloquent exposition of the

principles of the Whig party, and a review of the history of Van Buren's political career. Mr. Menefee's manner in depicting the character of Van Buren, his political history and that of the clique by which he is surrounded, was remarkably happy, and created infinite merriment among his audience." When Menefee had done it was announced that General Combs, the delegate to the National Convention, was present, and he was called on for a speech, but he arose and said, as it was after ten o'clock, he would defer his remarks until the meeting on the 18th.

The resolutions were then read and adopted. They condemned Van Buren, eulogized Clay, pledged Kentucky Whigism to Harrison, and appointed a committee to select delegates to the Whig young men's convention, which was to be held in Baltimore on the first Monday in May. The meeting then adjourned to meet one week later.

Although the next day was Sunday, Menefee left, probably on horseback, for his old home and birthplace, Owingsville, Kentucky, to take part in the second greatest law case in whch he was ever engaged. This was also to be his last visit to the place of his birth.

Late in 1839 William S. Lane, a citizen of Bath County, had killed McClellan Ewing. Both men claimed an ore bank, and Ewing drove the men that Lane had working on it away. Lane took them back and killed Ewing. The case was tried at a special term of the Bath County Circuit Court. Thomas F. Marshall prosecuted Lane and Richard H. Menefee defended him. After a trial which

lasted several days, the jury returned a verdict in favor of Menefee, acquitting Lane. There are old men in Bath County to-day who remember this legal battle, for such it was, between the two great Kentucky orators and lawyers. Menefee was at his best and it was the last legal speech he was to deliver in the full bloom of his manhood. He returned to Lexington, and was probably present at the meeting of the Fayette County Whigs which was held in Lexington on the 18th of January.

This meeting was held at noon for "the farmers of the county to add their voice to the general note of joy with which the land had been gladdened since the convention at Harrisburg." The meeting was addressed by Leslie Combs and Cassius M. Clay, two of Kentucky's delegates to the National Convention. The committee on resolutions upheld the resolutions of the Lexington Whigs with some amendments, which brought up a debate, and held the meeting until nightfall. Editor Wickliffe warned the Whigs not to let there be any difference of opinion on essentials.

On March 20, 1840, Menefee's third and last child was born, a daughter. He gave her his mother's name—Mary Lonsdale Menefee. This is the child that he mentions in his Diary as being anxious about her health. She was to survive him, however, for about six weeks, dying April 5, 1841.

The great convention of Whig young men met at Baltimore on May 4, 1840, and 18,000 delegates were in attendance. Clay, Webster, Wise, Preston, and Graves were present and

addressed the young Whigs. The procession was one hour and a quarter passing a given point. This was the largest convention held in America up to that time. The celebration was marred, however, by the fact of a Whig marshal being killed by a Loco-Foco—a Democrat. Menefee, so far as I have been able to ascertain, was not a delegate from Kentucky to this convention.

The Democratic Convention met in Baltimore the day after the Whig Convention and renominated Martin Van Buren for the Presidency, adopted a strict constructionist platform, and left the nomination of Vice-President to be made by the various States. The Liberty Party had met in November, 1839, and nominated James G. Birney, a native Kentuckian, but then a citizen of New York, and Francis Lemoyne of Pennsylvania, for President and Vice-President. Thus, with these parties in the field, the fight for the Presidency was on in earnest.

On May 6, at Hopkinsville, Kentucky, a convention was held to unite the Kentucky Whigs for the gubernatorial and presidential elections.[1] Five or six thousand persons were in attendance. A delegate from Christian County presented to the convention a flag, "the workmanship of his lady, representing the hero of Tippecanoe, receiving two of his comrades in arms in his log-cabin at North Bend, Indiana, with appropriate symbolic devices."

On the following day a resolution was

[1] Frankfort *Commonwealth*, May 26, 1840, copied from Hopkinsville *Gazette*.

passed, which stated that the convention deemed it a duty which they owed to their constituents to declare the high estimation which they place upon the talents and political devotion and exertion displayed by General Combs, the Honorable R. H. Menefee, and Archibald Dixon, Esquire, in their attendance upon this convention, and their able discussion of the great political questions and matters at issue before the American people, and to tender them the thanks of this convention.

"The Honorable R. H. Menefee being present at the adoption of this resolution, arose, and in a warm and appropriate manner responded to the honor conferred upon him." There was a man present who heard this speech, and afterward described it to a newspaper correspondent.

Old Uncle Spotswood Wilkinson, long a resident of this town, was said to have borne a very strong personal resemblance to General Jackson, and in disposition perhaps a greater similitude than in person. He was a man of very keen perception, well read, loved to talk, and was a fine conversationalist. Nothing delighted him more than to get a group of boys or young gentlemen together and rouse within them a spirit of healthy and enthusiastic ambition, by reference to events in history or recounting some of the observations of his own past life. We recollect to have been very much interested upon one occasion by an incident he related in the life of Richard H. Menefee.

It was in the memorable campaign of 1840, when Mr. Menefee, Sargent S. Prentiss, and Henry A. Wise were all members of Congress

together, and were regarded as the great triumvirate of the House, as Mr. Clay, Webster, and Calhoun were of the Senate. A great barbecue and convention of Whigs had been called for at Hopkinsville, and it having been announced that Mr. Menefee would be there, determined that he would attend himself. The occasion was never forgotten. It remained fresh in his memory to his death, and in making mention of it always reported it as one of the grand pleasures of his life. Sure enough he found Mr. Menefee there. The day was auspicious and the crowd was immense. After a number of very fine speeches by Chas. S. Morehead, Philip P. Triplett, and Robt. A. Patterson, Mr. Menefee was conducted to the stand and introduced to the vast audience. He described him as pale, careworn, and perceptibly exhausted by the immense labor of the exciting session of Congress through which he had just passed. But with eyes beaming with the inspiration of genius and a voice as mellow as the octaves of a flute, he was the very picture of an orator, and, like his great compeer, electrified every listener by his first utterance. He arraigned the administration of Mr. Van Buren with spirit and emphasis that recalled the bold utterances of Cicero against Cataline; and exhausted alike all the resources of satire, irony, sarcasm and pathos. Referring to the great ship of state as she rode majestically under the guidance of Whig masters over the waves of public opinion, he exhorted all to come aboard, and with inimitable aptitude of illustration related the anecdote of Noah and the skeptic at the approach of the Deluge. As the story

goes, Noah requested the unbeliever to aid him in the construction of the ark, and promised him, as a reward for his labor, that he should be borne safely over the great waters that were destined to cover up all things. But he ridiculed the wild prophecy and reproached him for his temerity.

The scene changes; the windows of Heaven were opened and the waters began to pour down. By and by, when the earth began to be covered up and our hero could no longer wander about dry shod, his courage began to give way and he asked to be taken aboard. Noah refused. He returned when the waters had increased to the depth of his waist and begged for passage. He was refused again. The rain continuing to pour and the waters still increasing, he found his way again to the doors of the ark through water up to his chin, and importuned the great Captain to take him on board. Noah still refused. At last, when all vestige of the earth's surface was fast disappearing, finding a temporary resting-place on the highest mountains, as the ark majestically floated away in the dim distance he was seen for the last time calling with mournful importunities to Noah for assistance.

By this time the audience was so completely carried away, and the acting of the orator was so perfectly inimitable when he tiptoed on the stand and directed his vision in imitation of the skeptic, beckoning and giving voice at the same time to the exclamation of "This way with your ark, Mr. Noah!" he says he saw five thousand people rise hurriedly from their seats at the same time, and turning completely

round, gaze intently to see the approach of the vessel.

Uncle Spott never forgot the impression here made, and discharging the debt of gratitude as best he could for the pleasure this great effort had afforded him, at the birth of his next son he christened him Menefee Wilkinson.

After Menefee's speech the convention recommended that Todd's and Drake's biography of Harrison be purchased and distributed throughout the State, to inform the Whigs more specifically about their candidate, and then adjourned.

The Frankfort *Commonwealth* for May 26 copied from the Lexington *Intelligencer* an account of a meeting that was held in Georgetown, Kentucky, to select a candidate for the legislature. Menefee's old classmate, G. W. Johnson, was chosen.

It was announced that Menefee and Col. John W. Tibbotts, a Democrat, were present. Tibbotts arose and flayed the Whigs alive. But, as soon as he had finished, Menefee arose and was greeted with great applause. For nearly two hours he replied to Tibbotts's accusations, in a speech of which Editor Bryant said that, "for thrilling and impassioned eloquence, biting sarcasm and keen satire, far surpassed anything we ever heard before." Colonel Tibbotts turned as pale as Duncan had when Menefee denounced him in the National House of Representatives. Menefee refuted every charge that Tibbotts made against Harrison, and Bryant ventured the assertion that he would never meet Menefee again. The meeting was one of Tibbotts's own choosing,

as Shadrach Penn, editor of the Louisville *Advertiser,* had dared Menefee, through his paper, to meet Tibbotts, and predicted if he ever did he would never do so again. But Menefee flayed Tibbotts just as George D. Prentice was flaying Penn nearly every day through the *Journal.*

On Monday, June 8, the Whig young men of Fayette held a meeting for the purpose of selecting delegates to the Harrodsburg, Kentucky, Convention. The meeting was addressed in the "most eloquent manner by the Honorable R. H. Menefee" and others. Resolutions were adopted setting forth the claims of Harrison, and the reasons why Van Buren should not be supported. About one hundred and fifty delegates were appointed to represent the county at the Harrodsburg Convention which met on July 2, 1840. Menefee was appointed as one of the delegates, and such distinguished Kentuckians as Bryant, Combs, Wickliffe the Younger, and Richard Pindell were also appointed to accompany Menefee.

The Harrodsburg Convention met on July 2, and Thomas F. Marshall was elected as the presiding officer. It was addressed by the leading Whigs of Kentucky and did a great deal to advance the Whig cause in the State. This was the second and last time that Menefee was to visit the oldest town in Kentucky.

All through the summer of 1840 a campaign was waged which, for enthusiasm, is unequalled in American politics. Log-cabins and hard cider were the symbolisms of the Whigs and were displayed everywhere. "Tippecanoe and Tyler too" was the Whig war-cry. The

political "stump-speaker" first became prominent during this campaign. Whig barbecues were held in Kentucky during the summer at Cumberland Gap, Olympian Springs, and many other places. Menefee was in the thickest of the fight, speaking at every opportunity in favor of the Whig cause.

On August 5 the Kentucky State election was held, and the Whig candidates, Letcher and Thompson, were elected over French and Helm, by large majorities. They were inaugurated at Frankfort on September 2, 1840. On his way to the capital, Letcher passed through Lexington, and was received by the local military company and escorted to Brennan's Hotel. Here, Menefee, Combs, Wickliffe, and other distinguished Lexington Whigs called to see him and to tell him how they carried Fayette County by a majority of nearly a thousand votes. Richard H. Menefee cast his last gubernatorial vote for Robert P. Letcher, the sixteenth Kentucky Governor, and the first of the State's Executives to issue a Thanksgiving Proclamation.

While Menefee had taken a very active part in the campaign of 1840, he had also attended to his law practice. The Lexington bar at that time consisted of the ablest lawyers in Kentucky. Henry Clay was still practicing law, and besides him, lawyers like Judge Thomas M. Hickey, who was associated with Francis K. Hunt; Robert Nelson Wickliffe, Jr., and Emilius K. Sayre, Richard Pindell, and Richard A. Buckner, Judge Aaron K. Wooley, who practiced in connection with Robert N. Wickliffe, Sr., and Larkin B. Smith. Menefee in

many cases was associated with Madison C. Johnson and Governor James F. Robinson. This array of legal talent has only been before the Lexington bar at one period of its history. Practically all of the law offices of that day were situated in the famous old street known as Jordan's Row.

During 1839-1840 Menefee brought twenty suits in the Fayette Circuit Court for debts, and won all of them. He, of course, as his advertisements in the *Commonwealth* stated, was practicing before other Kentucky courts. One of the most important suits for debt that he was engaged in was one against the law firm of Wickliffe & Sayre, which he brought for George Fry, who claimed $1,000. Menefee was assisted by Johnson and Robinson in this suit. He gained it, defeating two of his most eminent brother lawyers. He also brought suit and collected two notes amounting to nearly $2,300, against Vice-President Richard M. Johnson and David A. Sayre. These notes Menefee collected for Thomas C. Barnes. Menefee also drew up the contract transferring the famous old Kentucky newspaper, the *Observer and Reporter,* to David C. Wickliffe from M. L. Findell, and, later, when Findell complained that Wickliffe had not paid him for his paper, Menefee brought suit and got the money.

But the greatest law case that Richard H. Menefee was ever associated in was the famous James Rogers will case, which was tried before Judge Wooley at the September term of the Fayette Circuit Court, 1840.

On June 18, 1837, James Rogers of Fayette

County made his will, in which he recites that to his five children by his first wife he has already given, at different times, to each, personal and real property amounting to nearly five thousand dollars. That having so provided for each of the five children of his first marriage he now wishes to divide and distribute the remainder of his real and personal estate and effects between his second wife, Susan T. Rogers, and his two children by his second marriage, Adaline F. and Charles Fleming Rogers. In pursuance of which wish he bequeathed certain property to his daughter, Adaline F. Rogers, and then bequeathed the balance of real and personal property to his wife Susan T. Rogers and his son Charles Fleming Rogers.

James Rogers died on February 8, 1840, and left an estate valued at $50,000. His will was probated at the March term of the Fayette Circuit Court. On March 28, 1840, suit was brought by the five children of the first marriage against the children and widow of the second marriage to have the probate of said will set aside. Menefee, Johnson, and Robinson represented the five children, and Henry Clay and Robert N. Wickliffe, Sr., represented the widow and two children of the second marriage. Menefee's clients claimed that a few days before making his will James Rogers had suffered a severe stroke of apoplexy, which rendered his mind inadequate to the task of making a will, also that his widow and her two children had influenced Rogers in dividing his estate as he did. In other words, Menefee was to try and break the will on the grounds

of insanity. The burden of proof then was on his side.

The case was called in Judge Wooley's court on October 2, and six days were consumed in trying it. Menefee and Clay probably made their speeches on October 7, and the case was given to the jury. On October 8 the jury returned the verdict, signed by Richard Harcourt, the foreman, which said that, in their opinion, James Rogers was of sound mind and memory when he made his will and it should stand as probated. Richard H. Menefee's darling ambition to defeat Henry Clay was thus set aside. Wherever Menefee is known in Kentucky, he is known as the man who lowered Henry Clay's colors in a great law suit. This belief is based on the statement to that effect in Marshall's eulogy. But, as above stated, Menefee lost the case. I have no doubt that he made a greater speech than did Clay, but the burden of proof was on his side, it was too great, and he lost. He went into the case against the medical advice of one of the most distinguished physicians that Kentucky has ever produced, Dr. Benjamin W. Dudley, who told him that his physical condition did not permit of indulging in such great mental strain as would be required to meet Clay; but he replied that this was the first and perhaps the last opportunity that he would ever have to meet the "Great Commoner," and, although he had the hard end of the legal knot to untie, he was going to make the attempt. He did make it, nobly and gallantly, but failed.

Mr. La Vega Clements, in a speech on Menefee, based wholly on Marshall's eulogy

and on Mrs. Menefee's recollections of her husband, said that, after the verdict of the jury had been returned, "he hurried to her who awaited the result. When asked if he was tired after the struggle, with the smile of death upon his face, as he sat dangling his feet from the bedside on which he sat, the old ambition and zeal creeping through his wasted frame, he answered, 'No.' The same sweet smile that I had marked when he came from the legislative halls, triumphant, the same genial smile he wore from the cradle to the grave."

On October 15 Menefee made application for a new trial, setting forth six reasons for asking for it, but Judge Wooley overruled them. The case was then taken to the Kentucky Court of Appeals, which court, months after Menefee's death, sustained the decision of the lower court.

On October 23 Menefee bought from William H. Rainey ten acres of ground, containing a dwelling-house, on South Broadway, for $2,790.25—his fee, no doubt, in the Rogers case. This property had been sold on August 15 by Commissioner Harry I. Bodley to Rainey; but for one dollar and other considerations, Rainey transferred his bonds to Menefee. This was the only home that Menefee ever owned, as he probably rented a house in Mt. Sterling and boarded with Mrs. Jouett in Lexington. After his death his devisees sold the house to Isaac W. Scott, who in turn sold it to Jacob Ashton, at one time proprietor of the Dudley House, formerly Keiser's Hotel, where Menefee received his "boom" for Congress. On July 13, 1846, John C. Breckinridge,

the youngest of the Vice-Presidents, bought the house for $4,500. About ten years later General Breckinridge sold it to Rev. W. C. Dandy, pastor of the Hill Street M. E. Church, and he, in 1865, sold the house to Gen. John B. Huston, a celebrated Kentucky lawyer. The house has been recently sold to Dr. P. H. Malloy, and is to-day in a good state of preservation. As the residence of three distinguished Kentuckians,—Menefee, Breckinridge and Huston,—it occupies a place among historic Kentucky homes second only to Henry Clay's "Ashland."

On November 4, 1840, William H. Harrison of Ohio and John Tyler of Virginia defeated Martin Van Buren of New York and Richard M. Johnson of Kentucky, by an overwhelmingly large vote. Menefee's vote for Harrison was not only the last Presidential vote he was ever to cast, but also the last he was ever to cast for any candidate. Democratic electors were chosen in only two Northern and five Southern States. The new Liberty Party, led by James G. Birney, one of Kentucky's sons, did not succeed in choosing any electors, but polled nearly eight thousand votes.

The Presidential electors for Kentucky, chosen at the Harrodsburg, Kentucky, Convention of August, 1839, met in Frankfort, Kentucky, on December 2, and cast their fifteen electoral votes for Harrison and Tyler. Through the efforts of Menefee, Combs, and other men, the Whigs had swept the State. All of the electors were present, and this was the last time that Menefee was ever in the Capitol of his native State, where he achieved

his first legislative triumphs. After the votes had been cast for the Whig candidates, the question arose as to the one who should carry the vote to Washington. There were several candidates for this honor, but Col. John Payne, a soldier of the war of 1812, was finally elected to carry the vote of Kentucky to the national capital. In February, 1841, he went to Washington, and there the electoral votes were counted. The count showed that Harrison and Tyler had received 234 votes, and that Van Buren had received 60 and Johnson 48. Accordingly, on March 4, 1841, Harrison and Tyler were sworn into office. One month from the day of his inauguration, Harrison died, and Tyler, according to law, became President. He was a Calhoun-Democrat and had been elected to satisfy the Southern Whigs. Menefee, however, was not to live to see these events come to pass, and they are given here simply to round out the story of the great campaign of 1840.

On December 3, Richard H. Menefee returned to Lexington, and retired to his recently purchased home. On the following day, at sundown in his life, he began the only portion of his Diary that is extant. We shall now let him tell his own story almost to the end.

CHAPTER IX

SUNDOWN

Diary—December 4th—1840.

My birthday 31 years old. This anniversary has heretofore invited me to some review of the past as well as meditation on the future, generally ending in numerous resolutions of amendment of my past career, and in as many new enterprises in the acquisition of knowledge. One amongst which is the habitual use of this book as a diary, commonplace, or as well for cultivating and preserving the thoughts of others as my own, together with all parts or other matters proper to be noted and remembered without much respect to order or arrangement. I am the rather persuaded to this from having before me many months of leisure (at least compulsory respite from business made necessary by ill health) which fairly promises to enable me to pursue something of a systematic course of general studies, embracing the elements of most of the important sciences and the most approved of the ancient and modern (British) classics. If my health shall be (in the space of a year) properly re-established, and I shall in the meantime have accomplished what is here proposed, I shall not regard my ill-health as a calamity, but rather as a disguised blessing.

I find my religious opinions unsettled. An acknowledgement not reputable to one of my age in my condition—This must not be.

Dec. 7th—After a conversation of some length with my physician, Dr. Dudley, I have resolved henceforth to observe the strictest regimen taking only so much food as will support life in reasonable strength of

body—enough to prosecute my studies. This course is adopted upon his opinion and my own belief that my malady is seated in the organs of digestion and that they can only be relieved by comparative rest aided by medicines (in the smallest possible quantity that will effect the object) for correcting the action of the liver—My recovery probably depends on an inflexible adherence; my speedy recovery certainly does.

I have some thought of drawing up a brief sketch of my very obscure and unprofitable life; not for the benefit of the present or future generations, but for the personal advantage which I think might be drawn from the review it would involve. These advantages are, to my mind, so evident that it would be easy to state them, if I feared the suspicion of having thought of such a project as a matter of vanity. But I have no fear of the kind for I care not what others might, in the premises, suspect. In fact, it looks suspicious, quite.

December 11th—I commenced a few days ago the history of England from the close of the reign of James the 1st to the end of William the 3rd, as embracing its most interesting portion, especially in a constitutional point of view. It interests me extremely—

I must read Machiavelli's Works and Murphy's Tacitus.

December 12th—Having just read Bolingbrook's letters on the study and use of History and his sketch of the History and state of Europe, I conclude to observe the impressions he has made upon me. If anything were wanting to satisfy me of the doubt which hangs over the authenticity of nearly all history called ancient (including the historical portions of the Scripture), he has confirmed me. True History is Philosophy teaching by example; the end being to make men wiser and better. History is the best substitute for experience which cannot be obtained until one enters upon the world. It is man's best introduction into the

world, if properly studied. The mere knowledge of facts and dates is not a knowledge of history. The causes, effects, consequences and dependencies must be known. The office of the Historian is (amongst other things) to suggest reflections, draw instructive lessons to prove the events he narrates. Much history should be read merely; much again should be studied. It is not possible to master all; men should therefore confine themselves somewhat to what relates more strictly to their professions or employments. Modern history should be studied from the Fifteenth Century down. When causes have spent themselves in their effects, it is needless to attempt to go farther back. The links are no longer traceable. History gives you a complete view—the cause, the effect—the beginning, the end: whilst *experience* often, indeed generally, leaves the event incomplete, because we may not live to see the conclusion. Through History, therefore, more is seen than by experience, though probably not so well seen. The examples of virtue or vice which works of fiction present are less beneficial than that of History, because we are less apt to make the case of the actors our own. On the same principle that which is really seen is more impressive than what is but related. The right study of History gives the mind a habit of comprehensive observation; and is of much use even if the events are not remembered. Like the study of geometry, though the demonstration be forgotten—Applications of particular incidents of history are unsafe always from the impossibility, in most instances, of exactly knowing all the motives and circumstances which produced and attended them. Xenophon, Thucydides, Sallust, Livy, and Tacitus highly commended—Bacon's History of Henry the Eighth and Clarendon's History approved—strongly recommended to the Christian Clergy to cultivate the study of history in order to vindicate the truth of their religion; which he insists rests exclusively on historical

proofs, which proofs were in his day not the clearest. The intercourse through History with the great men of the world and participation in their actions; the view of States, rising, flourishing, falling; and that, in general, of which true history consists; has the same ennobling effect (though in a less degree) as if a witness to it all, and acting in it all. In reading history one should not be pyrrhonic any more than implicit. Machiavelli, Father Paul, Guicciardini, Davila, real historians.

I have fallen into a habit of profane swearing which I cannot tolerate in others. Why should I tolerate or expect others to tolerate it in myself? By the bones of Becket I will quit it.

I feel greatly the need of a congenial circle in which to spend profitably in conversation, a part of the time which (by my being wholly withdrawn from business) often hangs heavily upon me: Besides the importance of such conversation to any man in my condition—Lord Bacon affirms that an hour's conversation is equal to a week of meditation: it gives activity and vent to what otherwise stagnates.

December 14th—I have read most of Lord Bacon's Works—To a man who is preparing himself for the profession of law or the civil service of his country, I do not think they contain much worthy to be studied: excepting of course his admirable Essays which cannot be too deeply studied—His labors were of inestimable value to mankind by leading the way to the wonderful progress since made in every department of science and art: But they contained the seed merely: the fruit of which may be gathered from later works.—I scarcely know a greater benefactor of mankind; for whom rather than for himself or his own fame he chiefly labored; inasmuch as he completed hardly anything but prepared it for the hands of those who should follow him. In the war which in that age was opened against false learning he contented himself with ordering the hosts for battle, leaving the attack and

victory to be led on and won by other leaders. I reverence his memory without (but little) abatement arising from his faults (which were great) as a statesman and magistrate: they have been over-expiated by his services to mankind.—Had Newton been compelled to waste his time and strength in the preparations which Bacon placed ready to his hand, who can say that his wonderful genius could ever have achieved what it did? He was at the outset armed cap-a-pie by Bacon.

I have resolved to study thoroughly and profoundly the history of England, (especially its political history) from the beginning of the reign of James 1st to the close of Queen Anne's; but I fear shall want materials to render the course complete—I shall not so much desire to remember particular events, measures, or characters as to become imbued with the true spirit of the times (which I consider them to have been) which established the present system of English liberty. The importance of this period of history to an American statesman or jurist is extremely obvious. I go so far as to affirm that our political institution cannot be tolerably understood without it. So with respect to our own history—Want of time will urge me rapidly on, but I trust my deep sense of the value of the labor will enable me quickly to master it.

I have had a thought of reading Sully's Memories and other works containing (interspersed with other matter) profound, moral and political reflections and observations, in such a way as to note them as I progress, by the pages where found, and afterwards throwing them together in a suitable form in my commonplace book either in literal extracts or in my own language. I read for results which I take such reflections and observations to be.

December 17th—It is proper that I should qualify myself to the utmost in my retirement for practice in the criminal department of my profession; to which end the statutes of this State and the standard works on criminal laws should be thoroughly studied. The

body of the criminal law is fortunately not very extensive.—

December 18th—My memory has not been sufficiently cultivated and is not the best. My fault has been (if fault it be and so I regard it) to consider too little of the past: My eyes have been intent on the future. It is needful to a successful future that there should be a well considered past.—I have entered upon the correction of this fault: Amongst other means by exercising my memory by miscellaneous and unconnected questions to myself—from time to time, upon what I have read or done during the day or any period past, although tried but a few days I am sensible of improvement.—Many men have attained great eminence who had bad memories; but a good memory is of inestimable value. Yet, like all else that is good, it may be excessive whereby men (trusting too much to it) neglect other faculties of the mind, still more important. Indeed it is remarkable that most extraordinary memory is frequently associated with feeble capacity.

December 19th—To insure a more perfect acquaintance with the constitution of the United States and State of Kentucky I will shortly copy them into this book. Such a practice in the case of writings of peculiar importance and not too voluminous is the best means that I know of to acquire a critical knowledge of them: besides strongly imprinting them on the memory.—

Although I had often read it before, I was never so forcibly struck, as when reading it again this morning by the powerful sketch of Blackstone, in the fourth volume of his commentaries, of the origin and progress of the Papal ursurpations in Europe.

Painting, sculpture and other kindred arts have this advantage over eloquence—in the former, the student has the full benefit of the greatest works of the greatest masters as models; in the latter, it is otherwise. In the first place, it is impossible by any human means

to place in an enduring form the high exploits of eloquence: They are too ætherial to be chained in a stationary form, either on paper or canvass. By this the student of eloquence necessarily loses the chief benefit of the ancient masters. Secondly;—of the modern masters he can profit but little more, (if as much, indeed) because less nicety is observed in committing their performances to writing (on which the ancient bestowed incalculable pains). He may occasionally have the benefit of "a sitting" by hearing and seeing a great orator perform; but such orators are rare, and rare are the occasions on which they could be studied.

December 18th—Procure the most approved edition of Plutarch's Lives and become and continue familiar with them. Few books, in my opinion, have so much aroused the ambition of the moderns, by infusing into the minds of men the *sublimity* of antiquity. The eye is directed to the noble forest trees; the undergrowth is disregarded.

December 21—As yet I have taken no steps towards obtaining a regular miscellaneous library. Some books I have that are valuable; but snatched up without method. I shall endeavor to form not an extensive but a well selected library, confined to the Classics in the English language, and other works of solid matter; having an especial eye to the history and politics of my own country; and to the most approved Encyclopedias.

I closed this morning the history of England by Hume from the auspices of Charles the 1st, to that of Charles the Second, covering the stormy period of the Civil war—It is the first history that I can be said to have studied in its true sense.— I congratulate myself on the profit I suppose myself to have derived from it.—No period of history of the human race, of the same duration, is more fruitful in materials for profitable reflection. Never was human nature laid barer to the observation of the philosopher: indeed, it appears in a state so naked as rather to shock

by the exposure— Ages may pass before an opportunity will again arise so favorable to the study of man: the French Revolution has thus far approximated nearest. Philosophy must await another arrival of the kind for the study of the happiness of men, as it does violent convulsions of nature for a knowledge of physical phenomena; or the transit of the planets for observations in Astronomy.

December 24th—Having taken an unusual amount of exercise, I was betrayed by a ravenous appetite to eat too much dinner. From the dinner itself I experienced some inconvenience, but the consciousness of acting so madly (in my condition) has given me a pain (arising from a sense of remorse) that I have not lately felt. It will serve to warn me.

December 25th—I take my pen this morning with a languid hand and a depressed mind. Want of sleep for several nights (which until this morning I did not feel the injury of) has at length shown itself in languor disqualifying me from study.— The prospect, too, of protracted ill-health and suffering, with no absolute certainty of recovery operates to aggravate this (to me) first Christmas of sorrow. What a contrast between this and every other Christmas I remember! I stand in need, truly of every resource I possess to bear me up.— God, dispel the clouds which have for now near eight months hung over me, and restore my spirit and body again to their accustomed health! My wife, too, the most excellent woman that lives, is worn into sickness by incessant watchings over a favorite child long distressingly afflicted and whose death in a short time must be added to the sum of my other miseries. Still, will I brace myself against all this and more, and worse, if Heaven ordains it.— Already I feel tranquilized and consoled—— Should my disease assume a form which would forbid books and study, I confess I shall be without resources to support it: desolate, helpless, pitiable! All that reconciles me to my expulsion from the world is the consciousness that

an uninterrupted application to study will, when my health shall be restored, place me, when I re-enter it, far in advance of what I was when I left it. How then, could I endure the reflection that all the time I am confined, the world is leaving me rapidly behind! which would be so if I shall become disqualified to study.—

December 28th—I think that I do not read fast enough—dwelling too long. Matter, to be sure, worth reading (and nothing else ought to be read) cannot be too well digested. Yet there is such a thing as a waste of time even upon the best matter. I will, in future execute more; especially as I am forcing my memory into better discipline; for in the rapidity of my perception I have some confidence. (Whilst on the memory, I am reminded that mine has been injured by *running over* matter supposed not to be worth reading merely to prevent the possibility of anything of value escaping. It would be better to teach the memory implicitly to treasure up all you read. Yet I would not be understood to aspire to the possession of a wonderful memory; contenting myself with a good sound one.

December 29th—I am rejoiced to discover this morning that, the symptoms which lately gave me so much concern, proceeded from using a diet which (though generally considered light) proved not at all to agree with me: a discontinuance of which for but a single meal has almost restored me to the condition I was in before the injury was received. This admonishes me to be still more strict in my regimen. To guard against temptation to eat improperly, I resolved yesterday upon the suggestion of my wife, to withdraw henceforth from my attendance at table, and to take my meals—by allowance as to quantity—in my own chamber—My spirits are quite up once more; and I am now in the comfortable enjoyment of existence. The consciousness of having mastered sick-

ness by self-denial is certainly delightful; the more so from its rarity.

December 30th—I am apt both in public speech and in conversation to express myself too much in superlatives; whereby I lack force. Like one who to give emphasis to what he wrote should employ italics altogether. Nature must be consulted in this as in all things else—(And whilst in conversation, I will add that I have a faulty habit of talking too much even to the indecent interruption of others whilst actually speaking. Nothing can be more unhandsome or impolite. By judgment, you can always find time to offer measurably all that it is proper for you to say; which, when thus said carries the greater weight; ingratiating yourself in the meantime. Lord Bacon has an excellent essay on discourse which young men would do well to study—To converse well being a rare as well as valuable faculty (I hardly know one more valuable) one who has the material cannot too arduously cultivate it. My vanity suggests to me that I am not destitute of it; though it now lays in a scattered and disordered state: still being within the remedy of study, observation, and experience—

January 13th, 1841—The interval since my last note in this book has been one of great suffering to me. No man, until he has himself tried it, can realize the difficulty of controlling his appetite. All speak flippantly enough of doing it: But I pronounce that an inflexible adherence to a regimen so severe as to allow food barely sufficient to support life, with any tolerable amount of strength, is amongst that difficult undertaking that the wise or simple can engage in. Yet such regimen may all the time, be known to be the sole means of escaping death. The cravings of nature are immediate, animal; whilst the necessity of denial is remote, intellectual.—Without being fully convinced by the fact that I shall be able to succeed to the full extent, I hope and believe that I shall be able

to do so in a very reasonable degree from this time forward so long as my condition may require it.—

Amongst a variety of other resolutions formed for the future, I have undertaken to cultivate more than I have heretofore done, in social affections: wife, children, relatives—friends—acquaintances. I am sure that I have bent my endeavors too exclusively to the cultivation of the understanding. The understanding itself expands with the culture of the other affections and cannot reach its last flights without this aid: especially when the understanding (as with the orator) must deal so often and momentarily with the affections. —

A few days ago I took up Marshall's abridgement of his life of Washington, at the 25th chapter which finds Washington a private citizen at his plantation on the Potomac, and read the ensuing part of the work. Nothing can be more admirable! When before was the life of such a man as Washington traced with such a hand as that of Marshall? Illustrious men!

January 15th—It is always painful to me to see a long catalogue of valuable books that I have never read; that, for example, of the Library of Congress. Oh! it discourages me to the last degree, to know how much must be to me unknown!—But, wisely is it ordained that it is not needful that all need be known, for any purpose either of benevolence or renown. Men are driven to select from the illimitable field of knowledge some comparatively small space, and thoroughly explore and cultivate it. Not confining themselves, however, to one mathematical point of knowledge some comparatively small space, and the situation of your dominions from the vast continent of knowledge, to appropriate enough not only for your Capital (your main object—Law, for example) but for a multitude of Dependencies: not occupied for their own sake, but as supports to the principal possession. What to some is but the mathematical point, should be the centre of a wide circle:

the apex of the pyramid.—Men must not rationally aim at universal Conquest in knowledge—What a wonderful difference there is between the mass of Ancient and Modern Literature! An ordinary private library of the present day is often found to contain nearly all the remains of Ancient Literature; at least to contain books equal to them in bulk. The books of the Modern, would, if cultivated, tower into mountains! After all, there is some consolation afforded by the reflection that every book does not necessarily contain new thoughts; and that the knowledge of a few of the best may possess us of much that is found in multitudes of others: so that it does not follow that not to have read a book is to have lost the wisdom it contained. You know the man: he but wears a dress of a new fashion.

Menefee's extant Diary closed January 15, and from then on to the end his suffering was terrible. At first it was seated in the organs of the digestion, and bad action of the liver. Finally, contrary to the prevalent opinion throughout Kentucky that he died of tuberculosis of the lungs, consumption of the bowels developed and this disease was the cause of his death. His wife afterward insisted that "he was killed by malpractice, starved to death."

On February 15, 1841, Governor Letcher sent to the Kentucky legislature the resignation of John J. Crittenden, United States Senator from Kentucky, who had resigned to accept the position of Attorney-General in Harrison's cabinet.[1] Crittenden's resignation was accepted by the legislature, and they at once proceeded to the election of his successor. The

[1] House Journal, 1841.

names of James T. Morehead, Charles A. Wickliffe, William Owsley, John Calhoun, Richard A. Buckner, and Thomas Metcalfe were put in nomination. Morehead led on the first vote but he did not obtain enough to elect. On the 18th of February, after the fourteenth ballot had been taken, with Morehead still leading, Cassius M. Clay, representative from Fayette County, nominated Richard H. Menefee. This was the greatest honor that Menefee ever received, and it came to him when he was on his death-bed, with only three more days to live. Clay was ordered by the Speaker to inform the Senate that he had put Menefee's name in nomination. On the fifteenth ballot Menefee received the vote of the Speaker, Charles S. Morehead, and Representatives Adams, Botts, Brent, Chenault, Clay, Curd, Curle, Ford, Forman, Hawkins, Hazlerigg, Latimer, Marshall, C. A. Morgan, Newell, Raymond, Snyder, Waring, Williams and Woodson—22. In the Senate on this ballot, Menefee received only one vote, that of Charles J. Walker, of the Twenty-third senatorial district. This ballot ended Calhoun 42, Buckner 34, Morehead 31, and Menefee 23. This was the joint vote of the Senate and House. None of the candidates had enough votes to elect and the sixteenth ballot was taken. In the House, Menefee received the votes of Representatives Adams, Bruton, Bullock, Chenault, Clay, Curd, Curle, Ford, Hazlerigg, Innes, Morgan, Raymond, Skiles, Smith, H. H.; Waring and Woodson—16. He had gained some new votes but had lost some of the men who voted for him on the fifteenth ballot. In

the Senate, Senator Walker again voted for Menefee, and he also gained four new votes in the upper House, Morgan, Rice, M. Williams, and Young. The joint vote resulted: Calhoun 39, Buckner 36, Morehead 35, and Menefee 21.

On the seventeenth ballot Menefee received in the House the votes of Representatives Atkins, Botts, Bruton, Bullock, Chenault, Clay, Cunningham, Curd, Curle, Ford, Gabbert, Hawkins, Hazlerigg, Innes, Marshall, C. A.; Morgan, Newell, Raymond, Riffe, Rudd, Skiles, Stephan, N. B.; Waring, Watts, Williams, and Woodson—26. He had won back some of the representatives who voted for him on his first ballot and also gained a few new ones. In the Senate, Young did not vote for Menefee on this ballot, but the other four Senators who had voted for him on the sixteenth ballot also voted for him on the seventeenth, and he gained two extra votes in J. S. Morgan and Gen. S. L. Williams, with whom Menefee had represented Montgomery County in the Whig State Convention of 1836. The joint vote resulted: Calhoun 39, Menefee 32, Morehead and Buckner 31 votes each. Then, after Menefee had gained eleven votes on one ballot, and with one vote ahead of the man who was finally elected, Clay, for some reason unknown to me, withdrew his name.

On the twentieth ballot Joseph R. Underwood was nominated, but on the twenty-first ballot James T. Morehead was elected as Crittenden's successor in the Senate.

On Saturday morning, February 20, 1841, Richard H. Menefee realized that only a few hours remained before he would be called by

his Maker to join the Choir Invisible whose music is the gladness of the world. He had made a will before he purchased his home, and as he desired to revoke it he sent for his friends, Madison C. Johnson, Thomas A. Marshall, Waller B. Redd, and Doctor Benjamin W. Dudley, who was his physician, to draw up and act as testators to a second will. The body of the instrument was drawn by M. C. Johnson, and was very brief. It simply stated that after the payment of all his just debts, he devised and bequeathed the whole of his estate to his beloved wife, for her own support and maintenance and for his children's support. He gave her full and ample power over the whole of his property in its disposition. He appointed M. C. Johnson to be his executor and gave him authority to settle, compromise, and adjust all and every part of his business. He then subscribed his hand. The testators to the body of the will were Doctor Dudley and Thomas A. Marshall. Although codicils had been denounced by one of Menefee's most distinguished contemporaries, Ben Hardin, who rewrote his will before be would add a codicil, Menefee, nevertheless, then asked Thomas A. Marshall to add one, which stated that it was his further will and desire that no security should be required from his executor, M. C. Johnson, for the discharge of the duties which he had imposed upon him, as he had entire confidence in him. Menefee then subscribed his hand, a trembling, nervous one, to the codicil, which was the last time he ever wrote his name.

Years after Menefee's death, M. C. Johnson

(1806-1886) showed his appreciation of Menefee when he said, "Richard Menefee is the greatest lawyer that I ever met." Johnson had met all of the great Kentucky lawyers, and many of the leading lawyers of America. His opinion is, therefore, worth recording. Johnson was eminent as a financier and suggested to the Government the three per cent. bonds, by which millions of dollars were saved to the National Government.

During that day Doctor Dudley told Menefee that he could live for only a few hours, and he replied, according to Marshall, "Brief summons." Late that night, a few hours before the dawn of a Sabbath day, it became evident to the good doctor, Menefee's wife, Mrs. Matthew Jouett, his mother-in-law, and the other watchers at the bed-side, that the immortal spirit of Richard Hickman Menefee was about to ascend to his Master, and a few moments before his death, Mrs. Jouett asked him in what was his hope.[1] He replied: "The blood of Jesus," which were his last words. He died at the age of thirty-one years, two months, two weeks and two days. As he died very late on Saturday night, some of the newspapers, who noticed his death, said that he died early Sunday morning. The epitaph, on the old Allen grave-yard tomb-stone, fixes the date of his death on the twentieth, and this of course settles all controversy in regard to this point. On the day that Menefee died there was born, in Kentucky, the great geologist, Dean Nathaniel S. Shaler, who has been recently gathered to his fathers.

[1] Mrs. Menefee's letter to Mr. Clements.

CHAPTER X

MEMORIALS

One of the most lasting Menefee memorials is the portrait that Oliver Frazer (1808-1864), the Kentucky artist who ranks just below his master, Jouett, painted of Menefee, which he sat for two days before his death. The picture shows him to be greatly emaciated. It was finished after his death. Frazer and Menefee were friends, and when the former was in Europe, studying art, he often referred to Menefee in his letters home. Besides Menefee's portrait, he painted a picture of Henry Clay, that the "Commoner" regarded as the best picture that he had ever had painted. Frazer also painted portraits of Joel T. Hart, the famous Kentucky sculptor, and Chief-Justice George Robertson, perhaps the brainiest man that ever presided over the Kentucky Supreme Court.

The first notice of Menefee's death appeared in the Lexington *Intelligencer* for Tuesday morning, February 23, 1841. The editor, Edwin Bryant, gave a good biographical sketch of Menefee, and then added the following beautiful tribute:

> As a debater, he was peculiarly distinguished for his candor, courtesy, and dignity; the lucidness and beauty of his illustrations and the overwhelming force of his reasoning and eloquence which seemed to sweep away without an apparent effort every obstacle placed in their course by his adversary and to carry convic-

tion to the heart of the most obdurate; breaking into fragments the panoply of prejudice and ignorance, and penetrating to the most hidden recesses of the soul. "Thou speakest as never man spake," was the involuntary thought of the listener in those moments when all his peculiar eloquence burst forth; and he seemed then as one inspired by some superior agency. Before a jury or a promiscuous audience, his power was equally irresistible. He could mould them to his will, and wield them to suit his pleasure. Never in a forensic or popular encounter did his adversary come off victorious. Wit and sarcasm were ever at his command, and his persuasiveness rarely failed to accomplish the end desired.

Great as were the merits of the distinguished subject of this hasty and imperfect sketch, in that part of his character which we have noticed they did not exceed his moral and domestic virtues. He was amiable, unpretending, kind, generous, noble. His fidelity, truth, friendship and honor, could have been tested by the sacrifices of his life. He has gone down to his grave without spot or blemish to sully his reputation. So pure were his aspirations, and so blameless the tenor of his life, that envy itself dared not raise its voice or point its finger against him; and malice if such, from wrong impressions were ever harbored against him, was powerless and mute.

He has left a most amiable and interesting wife and family to mourn his melancholy and untimely exit. To them his loss is irreparable. The void can never be filled up. The stern Destroyer has interposed between them and him, and cut down, in the dawn of his manhood, usefulness and greatness, the affectionate and devoted husband, the kind father—their stay, their hope—the object of their pride and their love. But they, nor his immediate friends, are the sole mourners. His native State, and the whole nation, has suffered a bereavement which they most acutely feel and long and deeply deplore. He was a star of

promise, that bid to outshine the most brilliant in the moral firmament of greatness and fame. That star has prematurely and eternally set in Death; and we shall never be permitted to behold its meridian splendor; or witness again its earlier glories. The golden bowl is broken. His soul has taken its earthless flight.

Colonel Hodges, on the same day, in the Frankfort *Commonwealth,* said: "We have just heard, and announce it with deep regret, which will be felt, not only in Kentucky but throughout the nation, that the Honorable Richard H. Menefee died in Lexington on Sunday morning at two o'clock of that day." Hodges got the date of his death incorrect, as has already been mentioned. His account of Menefee's death was copied in Niles's *National Register* (Washington, D. C.) for March 6, 1841.

The Hon. Thomas M. Hickey presented the proceedings of a meeting of the members of the Bar and officers of the Fayette Circuit Court at the court-house in Lexington on Monday the 22d of February, 1841, on the occasion of the death of Richard H. Menefee, Esq., before the Court on February 23d. Judge Hickey was called to the chair and Harry I. Bodley appointed secretary. Madison C. Johnson, Esq., announced the melancholy event and offered the following resolutions which were unanimously adopted:

Resolved, That we deeply deplore, as a public calamity and private bereavement, the untimely death of our distinguished and highly gifted brother member of the bar, Richard H. Menefee, Esq., and that

our professional and personal association with him, affords us the consolation upon this mournful dispensation of Providence to add our testimony to the voice of the country in favor of his spotless honor and integrity and to declare our very exalted respect and admiration for his extraordinary talents and great intellectual endowment.

Resolved, That we desire to express to the afflicted widow and family of our deceased friend our commiseration in their distress, and that M. C. Johnson, J. R. Sloan, and H. I. Bodley be appointed on our behalf to communicate to them our condolence in the manner which may seem to them most appropriate.

Resolved, That as a manifestation of our regard for the memory of the deceased, we will go into mourning and wear crape on the left arm for thirty days, and that we will attend his funeral this day.

Resolved, That the Judge of the Fayette Circuit Court be requested to direct that the proceedings of this meeting be made a part of the record of the court, as a perpetual memorial of our veneration of our deceased brother, and that the same be published.

The Union Philosophical Society, of which Menefee was a member while at Transylvania University; the Transylvania University Medical School and the Law Society, of which he was a member while in the Law School, all passed resolutions of respect upon his death, and resolved to wear mourning on the left arm for thirty days, and to attend his funeral in a body. Of these resolutions, the one of the Law Society amounted to more than either of the other two. The last sentence of the Society's resolutions was as follows: "That Thomas F. Marshall shall be requested to deliver an address to this society on the character of the deceased, at any time that may be convenient to himself."

At his late home on South Broadway, at three o'clock Tuesday afternoon, February 23, 1841, Richard H. Menefee's funeral occurred. It was probably conducted by Rev. Nathan H. Hall, the Presbyterian minister who had performed his marriage ceremony, and of whose church Menefee's wife was a member. There was no funeral oration at the house or at the grave. With the members of the Fayette bar, the students of Transylvania University, and hundreds of friends and admirers of his eloquence and genius, the funeral procession moved north to Main street and then west to the old family burying-ground of William Allen, Mrs. Jouett's father, situated on the Georgetown road about two miles from Lexington. Here Menefee was buried, near the grave of Kentucky's master artist, and his father-in-law, Matthew Harris Jouett. Kentucky waited until Menefee's friend and contemporary, Thomas F. Marshall, should prepare his eulogy on Menefee, which took him about seven weeks to do.

Obituaries appeared in all of the Kentucky newspapers and in papers of other States. In the Maysville *Eagle* for February 24, Lewis Collins, the Kentucky historian, recorded Menefee's death and predicted that, had he lived, he would have been Henry Clay's successor in the United States Senate. Collins was misinformed as to the cause of his death.

> We learn by passengers in the Western Stage that Richard H. Menefee, Esq., one of the ablest, if indeed he were not the very ablest man of his age in Kentucky, in the Union—died in Lexington on Saturday night. His disease was bronchitis. A brilliant star,

which had mounted, almost in a twinkling, to the zenith, has thus been stricken from the political firmament of Kentucky! We mourn his death, as a State, nay, as a National bereavement. Had an all-wise but inscrutable Providence spared his life, the highest honors of the Republic awaited him. He would have filled the place in the councils and in the estimation of his countrymen, which must soon be vacated, in the ordinary course of things, by the distinguished patriot, who has enriched Kentucky with a halo of unfading glory.

The Nashville, Tennessee, *Whig* for March 3, 1841, copied *verbatim* Collins's account of Menefee's death. This fact shows that the fame of Kentucky's young orator was penetrating southward as it had already penetrated northward.

The Cincinnati, Ohio, *Daily Times,* edited by Edwin R. Campbell, for Wednesday evening, February 24, noticed Menefee's death in the following words:

We learn from the morning papers that intelligence has been received here of the death of Richard H. Menefee, late a member of Congress from Kentucky, and one of the candidates for United States Senator at the recent election by the legislature of that State. He died suddenly at Lexington on Saturday evening last. Although for a year past the health of Mr. Menefee has been so feeble as to preclude his entering into the active public life which has characterized that period, yet his friends hoped in the anticipated recovery of his health, that he might be spared through a long life of usefulness of which the brilliant commencement of his public career gave such abundant promise. It is well added by one of the morning papers that "no man was more fitted to honor public

station or ornament private life! His efforts in Congress bear testimony to the former, and his numerous friends will attest to the latter. In the halls of our National Legislature he was regarded as one of the brightest ornaments of the great Southwest, which, with others, he represented. Although abounding as that State does with talent of the highest order, Kentucky will not soon forget him."

The Washington, D. C., *National Intelligencer* on March 3 said:

The last mail from the west brings us the news of the death of the Honorable R. H. Menefee, in whom Kentucky has lost one of her proudest hopes. His service for two years in Congress (from 1837 to 1839) commencing, we believe, before he had reached his thirtieth year, in which he acquired a high character, afforded the promise of yet greater usefulness, when time should have matured his abilities and ripened his experience. Many, who looked forward with pleased anticipation to his reappearance on the stage of public life, will, with us, sincerely lament the early decline which has snatched him from his family and society, and left them only the odor of his virtues and the memory of his estimable qualities for the consolation of their griefs.

The Washington *Madisonian,* for the same day, announced Menefee's death in the following language:

We sympathize most sincerely with the deep regret which has been excited among the members of Congress, and his numerous friends in this city, by the death of the Hon. Richard H. Menefee, formerly a Representative from the 11th District of Kentucky. He died at Lexington on Saturday, February 20th.

Mr. Menefee entered Congress at the Extra Session of 1837; and at once distinguished himself by his genius, intelligence and debating power; while his amiable and generous disposition, and high-principled and chivalric character gained him the personal regard and attachment of the best men of all parties. No young man, within our recollection has ever entered public life giving better promise of a brilliant and illustrious career. His early death is a great loss to his State, and to the whole country."

The Commencement exercises of the Transylvania Law School were held a few days after Menefee's death. The class was still wearing mourning for him. John M. Bright, of Tennessee, the valedictorian, at the close of his exquisite valedictory, referred to Menefee in the following beautiful language:

Respected fellow-students: May each one of you become a distinguished gentleman and lawyer, and if death should invade our ranks, while in the bloom of life, may each one fall, reeking with professional honors, as *he* did, for whom we wear these appendages of mourning. The burning words of eloquence will never again be heard from the fiery tongue of the noble, the highly gifted Menefee. He now sleeps in the cold, still house. May the clods rest lightly on his generous bosom, and may his memory

> "'Grow greener with the years,—
> And blossom thro' the flight of ages.'"

On April 12, 1841, in Morrison Chapel of Transylvania University, the present main building of Kentucky University, Thomas

[1] Copied from Lexington *Intelligencer* in Nashville *Whig*, of Tennessee.

Francis Marshall (1801-1864), delivered before the Law Society of the University his eulogy on the "Life and Character of Richard H. Menefee." The historical inaccuracies have been noticed in the body of the book, and they will not be further noticed in foot-notes.

MARSHALL'S EULOGY

Gentlemen of the Law Society:

I am not here to recount in set phrase and with that courtesy which the living always pay to the dead, the virtues, real or supposed, of one around whose fate, youth and interesting private relations alone have cast a transient interest. I come not merely to acquit me of a duty to one whom I personally loved and admired, to weave a fading garland for his tomb, or scatter affection's incense over his ashes. Mine is a severer task, a more important duty. I stand here, gentlemen, as a member of a great commonwealth, amidst assembled thousands of her citizens, to mourn with them the blow sudden and overwhelming, which has fallen upon the country. He about whose young brows there clustered most of honor—he, around whose name and character, there gathered most of public hope—the flower of our Kentucky youth, "the rose and expectancy of the fair State" lies uprooted. He, who by the unaided strength of his own great mind, had spurned from his path each obstacle that impeded and rolled back the clouds which darkened his morning march—who in his fresh youth had reached an eminence of fame and of influence, which to a soul less ardent might have seemed the topmost pinnacle, but which to him, was only a momentary resting place, from whence, with an undazzled eye and elastic limb, he was preparing to spring still upwards and nearer to the sun of glory, which glowed above him; while the admiring crowd below were watching with intensest

interest each movement of his towering step, each wave of his eagle wing,

> "'Why sudden droops his crest?
> The shaft is sped, the arrow's in his breast.'"

Death canonizes a great name and the seal of the sepulchre excludes from its slumbering tenant the breath of envy. I might fling the reins to fancy and indulge in the utmost latitude of panegyric without offence; the praises of the dead fret not the living. But I am not here upon an ordinary occasion to pronounce a pompous eulogy in set terms of a vague and general praise. You have directed me to draw the life and character, to delineate the very form and figure of the mind of one, whose moral likeness you wish to inscribe in enduring and faithful colors upon your archives, not only as a memorial of one loved and lost, but as an example and model for the study and imitation of yourselves and successors. It is not a sample of rhetoric, but a perpetuation of his image, that you seek, as the monument best suited to the subject, as a real and historic standard by which the youth of after times may measure and elevate the idea and the stature of excellence. And surely, if ever there were mirror in which young genius could glass and fashion itself; if ever there were mould in which the forming intellect could be cast in the just and full proportions of graceful energy and perfect strength; he, of whom we are to speak this day, was that mirror and that mould. Would that the artist were equal to his work, would that his mind were fully up to the dignity of his subject; then indeed would I gladly obey your high command; and give to posterity, embodied in my land's language, the very form and lineament, the breathing attitude, the intrepid port, the beaming hope, the dauntless energy of a genius which "poverty and disease could not impair, and which death itself destroyed, rather than subdued." Ah, had he but lived! on that broad pedestal laid already, he would himself have raised a statue colossal and

historic, an individual likeness, but a national monument, than which never did the Grecian chisel, from out of the sleeping marble, awake a form of grander proportions or of more enduring beauty. He meditated such a work and was fast gathering round him the eternal materials. Type of his country, he sought to mingle himself with her existence and her fame and to transmit his name to remote generations as an epitome of her early genius and her history, and as the most signal example of the power of her institutions, not only for the production, but for the most perfect development of the greatest talents and the most exalted virtue.

Richard H. Menefee, whose death clothed this immediate community with mourning, threw a shade over Kentucky, and awakened the sympathies of the whole American public, was born in the town of Owingsville, and county of Bath, 4th December, 1809. His father, Richard Menefee, was an early emigrant from Virginia. He was a man by trade a potter, and exercised his calling for many years in Bath. Although of exceedingly limited education and originally of very humble fortune, the native strength of mind and the love of information raised him to very respectable attainments in knowledge, while the integrity of his character, no less than his sagacity commanded the confidence as well as the respect of all who knew him. He was repeatedly elected to the legislature of Kentucky and served one term in the Senate. The characters and the career of distinguished men have sometimes been traced to circumstances apparently trifling; which even in infancy have been thought to have settled the bent of the mind. The biographer of Napoleon has noted among the earliest and most prominent incidents of his infancy, that his first plaything was a miniature cannon, with its mimic equipments. From this first impression, or early predilection, the indelible image of war may have been stamped upon the mind and decided forever the genius

and the passions of the conqueror of Europe. In 1809, Kentucky's great Senator was fast drawing upon himself the gaze of men. The saffron tints of morning had already announced the coming of that orb which has since shone forth with such splendor in the eyes of the civilized world. The father of our Richard had at one time determined to call his son Henry Clay, and indeed the infant statesman and orator wore the name for the first two or three months of his existence. It was subsequently altered to Richard Hickman, from respect to a warm personal and family friend, but the boy was apprised of the praenomen of his infancy, and fired even in childhood by the fame of his great countryman, breathed often to heaven his fervent orison, that he might one day equal the eloquence, the greatness and the reputation of Mr. Clay. That the love of glory was the master-passion of his nature, and that sooner or later some event or circumstance must have roused it to life and action we cannot doubt, and yet it may be that the simple circumstance we have cited, may have marked out the path and determined the object of his ambition. That it made a deep impression upon his childish imagination, is a veritable and very interesting fact in his boyish biography. He was left by his father an orphan at about four years of age and an estate never large was almost entirely wrecked by mismanagement and that bane of widows and orphans, a law suit—in which it had been left involved. Richard's utmost inheritance of worldly goods did not exceed a few hundred dollars. He seems till he was about twelve years of age, to have been indebted almost exclusively to his mother's instructions for the rudiments of knowledge he received. For her he cherished to his latest hour the fondest veneration. He was her champion in boyhood, for sorrow and misfortune fell fast upon her. It was in his mother's defence that the lion of his nature first broke out. Incidents might here be related, exhibiting in rare perfection the depth of

filial piety and dauntless heroism in a boy of fifteen, but they involve circumstances and feeling too delicate for a stranger's touch. In proof of the strength and tenderness of his private affections, it may here be stated, that after he commenced the practice of law, though pressed by the claims of his own family, he devoted a portion of his own slender means to the support of a brother, overwhelmed with personal misfortunes, and an orphan sister, and continued it till his death. At twelve years of age, so far as I have been able to learn, he first entered a public school. Like steel from flint, the collision of other minds struck instant fire from his own. The first competition brought into full play the passion for distinction, which formed the master principle of his nature. His teacher was astonished at the intense application, surpassing progress and precocious genius of the boy. He predicted to his pupil his future greatness, exhorted him to perseverance and furnished him every facility in his power. With this gentleman, whose name was Tompkins, (it should be written in letters of gold,) he seems to have remained without interruption for two years, at which period his mother married a second time, and he was removed from school. Clouds and thick darkness gathered now, over his fortunes and his darling hopes. At fourteen, he was summoned to attend at a tavern bar in Owingsville. But the omen of his first name still cheered him on, and the fire which had been first kindled within him could not be extinguished. He compromised the matter at home and served at the bar or labored in the field during the summer, for the privilege of school during the winter months. Even this did not last, for want of means, (mark that, ye of more prosperous fortunes;) for want of means to defray his tuition fees, this unconquerable boy exchanged the character of pupil for preceptor at fifteen years of age and taught what he had learned to others for hire during the winter months, that he might accumulate a fund with which

to prosecute his own education thereafter. He continued thus till about his sixteenth year; when, in consequence of unpleasant difficulties with his stepfather, he was taken to Mountsterling by Mr. Stockton, an intimate friend of his deceased father. From this time he seems to have been left to his own guidance, and wrestled alone with his fortune. Upon the division of the wreck of the paternal estate, a negro was assigned to Richard, about the period of his removal from home. He sold this slave to his friend, and with the proceeds, together with what he had earned as a preceptor, maintained himself at the public school in Mountsterling till his eighteenth year, when he entered Transylvania as an *irregular* Junior. The rules of college would have excluded him from the privilege of examination and debarred him even from a trial for the honors of his class. But that discipline which fixes a given time for given accomplishments and deems their attainment impossible, save within the limits and in the mode prescribed, was not framed for such as he. The hardy orphan who had been tutor and instructor of others at fifteen, and absolute and unheeded master of himself at sixteen, was not likely to be damped or daunted from his not having passed through a technical routine of studies, based upon ordinary calculations and framed for ordinary minds. He had already trampled upon the legal maxim which fixes one and twenty as the age for self-government, already "had his daring boyhood governed men." He gazed in scorn upon the artificial impediment which would have barred him from academic honors, and cleared it at a bound. His intrepid genius, his intense application, and the bold and extra-collegiate range of his information had attracted the eye and the admiration of the celebrated President Holley. Through his intercession and influence the strict canon of the University was dispensed with in Richard's behalf; he was admitted to an examination with his class, and bore away the palm. Upon his return to

Mountsterling his funds were exhausted and he again became a private tutor while he prosecuted the study of law with Judge James Trimble. He persevered in his labors and his studies till the year 1830, when upon the death of his friend Stockton, whose affairs required the superintendence of a lawyer and to whom he held himself bound by a debt of gratitude, in his twenty-first year he obtained a license to practice and undertook as his first professional act, without charge, to settle and arrange the complicated and embarrassed affairs of his friends. In the fall of 1831 he was enabled to attend the law lectures here, when he became a distinguished member of your society. In the spring of 1832 he received the appointment of Commonwealth's Attorney, and in August before he had attained his twenty-third year he was married to the eldest daughter of the late Matthew Jouett. It is not among the least interesting circumstances which concentrate in the union of these two orphans, that the dowerless daughter of Kentucky's most gifted artist should have found a tutor in her childhood every way adequate to form her taste and fashion her understanding, and that in the dawning graces of her first womanhood reflecting back upon its source the light she had borrowed should have drawn and fastened to her side as friend and protector through life, that same boy preceptor from whose precocious mind her own had drawn its nutriment and its strength. Jouett and Menefee! what an union of names, what a nucleus for the public hopes and sympathies to grow and cluster round, to cling and cleave to. And they are united in the person of a boy, a glorious and beauteous boy—upon whose young brow and every feature is stamped the seal of his inheritance. I have seen this scion of a double stock through whose young veins is poured in blending currents the double tide of genius and of art. Bless thee, Jouett Menefee, and may heaven which has imparted the broad brow of the statesman orator along with the painter's ambrosial head and

glowing eye, may heaven shield and preserve the boy, from the misfortunes of thy house.

Mr. Menefee retained his appointment, and located at Mountsterling continued the practice of law with extraordinary success in the various counties of that mountainous district till August, 1836, when he was returned the member from Montgomery to the House of Representatives of Kentucky. It was the fortune of your speaker to-day, to have served in the same body during that session, and it was at this period that he first saw and became acquainted with the illustrious subject of this discourse. The impression which Mr. Menefee then made was instantaneous, and ineffaceable. He was in his twenty-seventh year, but the lightness of his hair, his delicate complexion and almost beardless face, and a certain juvenile outline of person, made him look to a transient observer some years younger than he really was. I knew nothing then, nor till long after, of his private history. He stood among his colleagues in legislation, almost an entire stranger. He was surrounded by no peculiar circumstances or associations of influence or of interest. No pomp of heraldry blazened his hitherto obscure name; no hereditary honors glittered around his pale brow; no troop of influential connections or family partisans stood ready to puff him into prompt notice, or to force him upon fame. Even the incidents of his young life which would have won for his chivalric spirit an admiring and generous sympathy were unknown. The storms through which his star had waded in its ascent, the strife perpetual which he had waged from infancy with evil circumstances and most malignant fortune had rolled over him unknown or unheeded by that world to whose service and applause he had been fighting his way. He came into the lists unattended, without device, armorial bearing, squire, pursuivant, or herald. Entertaining the views which Mr. Menefee did, it cannot be doubted that he regarded the legislature of Kentucky as an important

theatre to him. It was the entrance into that temple upon whose loftiest turret his eye had been fastened from childhood. The scene was practically at least an entirely new one to him. He was well aware, no man more so, of the importance of first impressions upon a body constituted as that of which he was a member. One would naturally have expected from a person situated as he was, great anxiety, not unmixed with bashfulness and timidity in his debut. You might have anticipated too, the selection of some question of great and general interest, and the careful and elaborate preparation, by so young and aspiring a member, of a *speech* duly laden with flowers, and studded with all the rhetorical gems of trope and figure. No such thing. He threw himself easily and naturally, and with apparent carelessness, into debate for the first time, upon a bill entirely private in its character and of not the smallest interest to the house. No sooner had he risen however, and his bell tones vibrated through the hall, than every eye and ear were riveted into attention. There was about him an air of practiced ease, a self-possession, a deliberation, as utterly remote from affectation or impudence, as it was entirely free from confusion or timidity. He wore the cheek of a boy, and moved with the tread of a veteran. There was no impatience for display, no ambitious finery, no straining after effect about him, but there was a precision and clearness in his statement, an acuteness, a strength and clearness in his argument, which bespoke a mind not only of the greatest original power, but trained in the severest school of investigation, and to which the closest reasoning was habitual and easy. He seemed to move too, in his natural element, as though he had so long and so carefully revolved in his own mind the theatre of public affairs as being the true stage for him that he stood there albeit for the first time without surprise or anxiety. It was upon a motion of his own to reverse a report from the committee of courts of justice upon a bill

authorizing the sale of some infant's real estate, that he was first heard to speak. The present Governor of the Commonwealth was at the head of the committee, and some of the most experienced members of the house, and of the ablest professional men in the country were members of it. The member from Montgomery attacked their report with so much vivacity and such remarkable ability, that they felt themselves compelled to make a regular and formal defence, which they did seriatim, and it is no reflection upon their talent to state now, what all felt then to be true, that their young antagonist was a match for the whole. This debate and the occasion of it would have passed from my memory long since, but that they served to develop to my view for the first time, the character and the powers of a man evidently marked out for greatness, whose subsequent career was one unbroken series of splendid successes, whose genius then first fairly risen upon the public, within three years from that date, shot into the zenith with an horizon stretching to the utmost boundary of the American States. After this first effort, trifling as would seem the occasion, Mr. Menefee was no longer considered in the light of a promising young man. He did not climb gradually into favor and influence with the House, but sprang at once and with an elastic ease truly surprising, into the position, not only of a debater of the highest order, but of a leading mind, whose ripened judgment and matured thought rendered his counsels as valuable, as the eloquence in which they were conveyed was striking and delightful. He was a member of the committee of finance, and reported and carried in the face of the most violent opposition, what is usually termed the "equalizing law" by which the ordinary revenue without an increase of taxation, but by including new subjects, has gained upwards of thirty thousand dollars per annum. The debates in the Kentucky legislature are not reported, and little attention is paid, and little

interest manifested throughout the country in what is passing at the capitol in Frankfort. Yet upon the narrower and more obscure theatre which he then trod, did Mr. Menefee display during that winter, powers and qualities which in Washington would, as they afterwards did, have covered him with glory and fixed his name. Compelled by the particular interest which I then represented, (being a member from the city of Louisville) to be thrown into frequent collision with Mr. Menefee in the debates of the house, I had ample opportunity both to know and to feel his intense power as a disputant. Attracted powerfully by the whole structure and style of the man, I studiously sought occasions for a close and critical observation of him. To men curious in such things he was a subject altogether worthy of study. Accident threw me somewhat into his personal confidence, which furnished better opportunities of ascertaining the distinctive traits of his character and the habitual complexion of his mind, than the mere contests of argument and public discussion would have afforded. In the course of the session, he was heard upon every question of state policy and always with an attention which showed how deep he was in the confidence of the House. Upon a proposition to reduce the salaries of the State engineers, to which he was opposed, he took occasion to discuss the system of internal improvement, as it is called, in which he showed that lawyer as he was, he had found time to study deeply the sources of national wealth, and the principles of public economy. Upon a proposition of his own which he lost, to place the salaries of the judges at Louisville upon the same footing with the other judges of the Commonwealth, he displayed in the most eminent degree the peculiar traits of his genius. It was not the discrimination in the amount of the salaries to which he objected. It was that principle in the law, which virtually made the Commonwealth's judges at

Louisville to be paid by, and of course to be dependent to a certain extent, upon that corporation, which he resisted and exposed. But the master effort of his mind that winter, was on the bill to repeal the law of 1833 prohibiting the importation of slaves. Never yet have I heard or read among all the discussions to which that law has given rise, an argument so masterly, so statesmanlike, so triumphant as that of Mr. Menefee. Profoundly practical, and standing utterly aloof from the extremes of fanaticism, he displayed the deepest knowledge of the natural foundations of social prosperity, and the most cautious regard for existing institutions. Equally exempt from the rash spirit of political empiricism which would tear the subsisting frame of society to pieces, in search of that which is abstractly good, and from that worse than cowardice, which shutting its eyes upon what is absolutely and demonstrably evil, would deepen and extend it, for the wise reason that it is not perfectly curable, that desperate quackery, which would spread a cancer over the whole body, because it could not be safely extirpated, he neither lauded slavery as a blessing, nor dreamed with crazy philanthropists, or murderous incendiaries of its sudden and violent extinction. He adhered to the law of 1833 as a means of checking the increase of an evil which could not now be prevented. It is a public misfortune, and a drawback upon Mr. Menefee's fame, brilliant as it is, that his speeches in the legislature of Kentucky were not preserved. Regarding him, as I have already said with the deepest interest, and under circumstances very favorable for observation, I describe him as he impressed himself upon me. The great characteristic of his mind was strength, his predominant faculty was reason, the aim of his eloquence was to convince. With an imagination rich, but severe and chaste, of an elocution clear, nervous and perfectly ready, he employed the one as the minister, and the other as the

vehicle of demonstration. He dealt not in gaudy ornament or florid exhibition; no gilded shower of metaphors drowned the sense of his discourse. He was capable of fervid invective, vehement declamation, and scathing sarcasm, but strength, strength was the pervading quality, and there was argument even in his denunciation. "No giant form set forth his common height," no stentor voice proclaimed a bully in debate; yet did he possess the power of impression, deep, lasting impression, of interesting you not only in what he said, but in himself, of stamping upon the memory his own image, in the most eminent degree, and in the most extraordinary manner, of any man of his age whom it has been my fortune to encounter. "*Bonum virum facile crederes, magnum libenter.*" Although removed the farthest possible, from the affection of mystery, or any asserted and offensive pretension to superiority over other men, and although his manner was exempt entirely from the charge of haughtiness, still as he appeared at that time, he loved not familiarity and courted no intimacy. He was bland, courteous, and perfectly respectful in his intercourse; still there was a distance, an undefinable sort of reserve unmixed with pride, but full of dignity, keeping frivolity aloof and attracting at once your curiosity and your interest. Upon his forehead, which was broad, and full and very commanding, were traced the indisputable lines of intellect and genius. His pale and delicate brow was stamped with the gravity and the care of premature manhood. About his lip and mouth were the slight, but living and indelible traits of a resolved and ambitious spirit. The whole countenance was that of a man who had suffered and struggled, but who had conquered the past and was prepared to grapple fearlessly with the future. But the master expression, the natural language which breathed from his face, from step, gesture, and even the almost feminine tone of his voice and which con-

trasted so strangely with the delicacy of the whole, was energy, unfainting, indomitable, though curbed and regulated energy, which could sustain him through all danger and under all fortune, and which would and must bear him on to the utmost mark at which his ambition might aim, and to which his talents were at all adequate. There was nothing restless or impatient about him. His was deliberate, concentrated, disciplined energy. He had that managed calmness of general manner, which so often betokens a fiery and excitable temperament, but under the most perfect control. Never man was more entirely master of himself than Mr. Menefee. His conversation corresponded with and deepened the impression made by his public speeches and a close examination of his whole appearance. He had all the quickness and penetration of a man of true genius, but without a spark of wildness or eccentricity. There was no dreamy idealism, no shadowy romance, no morbid sentimentalism about him. The occasional splendor of his illustrations proved him to be sure possessed of an imagination not only grand and lofty, but exquisitely sensible of the beautiful and the soft, but it was the ally, not the principal; and an ally upon which his sovereign reason, abounding in its own resources, leaned but little and drew but seldom. His fancy drew her inspiration from the natural fountains around and within him. It was not even tinged with the sickly light of modern fiction. His whole mind was eminently healthy. His was the seriousness of determination, unmixed with gloom or melancholy. The purity of his language, which was remarkable for its beauty as well as its precision, declared a mind imbued with elegant letters, but there was an antique severity in his taste, a marble firmness as well as smoothness in his style, which spoke of the hardihood and muscle of the Grecian masters, those first teachers

and eternal fountains of poetry and eloquence.[1] But neither Mr. Menefee's conversation, nor his attainments, nor his talents, eminent as they all were, surprised me so much as the matured and almost rigid tone of his character, the iron control which he exercised over himself, the cool, practical and experienced views which he took of the world, and the elevation, consistency and steadiness of his purposes. These were the qualities which made his talents useful; these were the qualities which, young as he was, gave him such absolute hold and command of the public confidence; these were the qualities which adapted him to the genius and bound him to the hearts of his countrymen, without which he might have been brilliant, but could never have been great.

He had early ranged himself with that great party in politics, whose protracted and arduous struggles have at last found their consummation, and whose principles have been ratified by the judgment of the nation in the election of General Harrison to the Presidency. He belonged to that class of minds, who in every country and under every form of government, are found the unflinching advocates of rational and regulated liberty, a liberty founded in principles fixed and eternal, and which is only safe under the shield and cover of a law changeless and inviolable by the government, equally supreme and binding upon the rulers and upon the people. The imperial maxim *"voluntas principis habet vigorem legis"* he rejected utterly. He loathed despotism in all its forms, and wherever lodged, whether in the hands of one, the many, or the few. Born in a monarchy, he would have died as Hampden died, in the assertion of legal limitations upon the prerogative. Born in a republic,

[1] That he was familiar with the historians and orators of antiquity, particularly of Athens, I am enabled to state of my own knowledge. Those who knew him at college, say that he won his academic honors by his superiority in Mathematics and the languages.

he clung to the constitutional restrictions upon the rapacious passions of faction. He regarded the courtier cringing at the footstool of a throne, and the demagogue lauding the absolute power of a mob, as equally the foes of freedom, and the just objects of patriot execration. He understood the term "people" as comprehending every interest and every individual and looked upon that system alone as free, which protected each against the arbitrary power even of the whole. He regarded government as something framed for the defence of the weak against the strong, of the few against the many, and considered human rights as only safe, where fixed laws and not the fluctuating caprices of men and parties were supreme. Strength and numbers are absolute in a state of savage nature, they need no laws nor magistracy for their support. The rights of the weak and the few, can only be secured by the incorporation of the eternal principles of liberty and justice in a constitution impassable to power and immutable by party. The splendid popularity of a favorite chief, blinded not his reason, the roar or triumphant faction deafened not his conscience, the proscribing genius of a power which punished with inexorable severity, or rewarded with unbounded profusion, appalled not his moral courage, nor shook for one moment his native integrity. Young, poor, talented and aspiring, still he followed where his principles led him and battled long on the side of a feeble and almost overwhelmed minority of his countrymen. To the cause which he espoused, through all its fortunes he adhered with unbroken faith and consistency and lived just long enough to witness its final and complete success.

Mr. Menefee passed from the Legislature of Kentucky into the national councils, where he took his seat in the lower house of Congress at the called session of 1837. He is said to have exhibited during the canvass, extraordinary powers of popular elo-

quence, and unequalled grace and facility in mingling with the great body of the people, demonstrating thereby the versatility of a mind whose strength alone I have been contemplating. The same destiny (for it seemed no less) attended him in Congress, which had marked his entrance upon state legislation. There were no gradations in his congressional history. He comprehended at once, and as if by instinct, the new scene in which he was called to act; and no sooner did he appear, than he was recognized as a statesman and a leader. The intrepid boldness of his character and precocious strength of his genius seem to have smitten all parties with astonishment. Some of the leading men of the political party to which he was opposed, pronounced him the most extraordinary man of his age, who had till then, appeared in Congress. He encountered hostility in his upward flight, (when did soaring genius fail to do it?) and meaner birds would have barred him from his pathway to the skies. With crimsoned beak and bloody talons, he rent his way through the carrion crew and moved majestically up to bathe his plumage in the sun. Never did a career more dazzlingly splendid open upon the eye of young ambition, than burst upon Mr. Menefee. The presses teemed with his praise, the whole country was full of his name; yet did he wear his honors with the ease of a familiar dress. He trod the new and dizzy path with a steady eye and that same veteran step which was so eminently his characteristic. Around his path there seem to have been thrown none of those delusions, which haunt the steps of youth and inexperience. All was stern reality and truth. He maintained his character undimmed, and his position unshaken till the end of his term, and then this wonderful man imposed upon himself, his spirit and his ambition, that iron control of which I have spoken and voluntarily retired from a theatre the most elevated and commanding, upon which genius and ambition

like his could engage in the gigantic strife for undying honor. At twenty-nine years of age, Mr. Menefee found himself upon a summit to which the dreams of youth and hope could scarce have aspired. He alone seemed neither astonished nor confounded by the height to which he had arisen. In 1837 an obscure young lawyer, scarce known beyond the precincts of his native highland district; in 1839 he stood forth on the world's great theatre in acknowledged greatness, the predictions of his first tutor realized, the prayer of his childhood granted. He stood on that eminence so long and so gloriously occupied by the man whose name he once bore, and whose fame had been the pillar of fire by which he guided his footsteps through the long, dark, perilous and unfriended night of his boyhood, and he stood there at an age which threw even that example into the shade. The draught which he drank, so far from intoxicating his understanding, served only to refresh and invigorate his spirit for the work set before him. He surveyed calmly from the height on which he stood, the prospect stretched beneath him, he quaffed the full beams of the sun of glory which glowed about him, then turning to the gentle flower at his side, which he had vowed to shelter and defend, to her who had loved and trusted him in obscurity and penury, before the world now ready to do him homage, had learned his transcendant talents and inestimable worth, and folding her, all bright and blushing in the light of her husband's glory to his bosom, he descended without a sigh, to vindicate her confidence and toil for support.

He was now, though steeped in poverty, in the full possession of fame. He was known universally. Over his character there hung no doubt nor shadow. He had but to select his ground, to choose his theatre. His talents, his acquirements, his habits, all fitted him eminently for the bar. A self-made scholar, he was of indefatigable application—with a mind of singular acuteness naturally and now much enlarged and

strengthened by the great topics it had grasped and the powerful collisions into which it had been thrown, he was peculiarly fitted for the largest and most comprehensive views of jurisprudence. Of an integrity stainless as the untrodden snow and without one vice to consume his time or warp his career, he was sure to devote himself to the interests of his clients. In the summer of 1839 he located himself in Lexington. There was no dreary noviciate with him. He stepped into the forum armed at all points, and business flowed in upon him in a full and rich tide. Never did any man occupy such a position in Kentucky as did Mr. Menefee in the opening of his professional career in Lexington. The public sympathies rallied around to cheer and to support him in a manner utterly unknown in any other case. Each step of his progress but deepened the interest and vindicated more triumphantly the opinion entertained for him. Men flocked in crowds to hear him speak, his counsel was sought and relied on, and his services engaged whenever it was practicable at points distant from the scene of his immediate operations. At a period of life when most men are just rising into business, he was steeped, actually overwhelmed with the weightiest, most honorable and most profitable causes. The sun of prosperity broke out upon him with a warmth and brilliancy entirely without example. All difficulties had vanished from before him. In the past he found nothing with which to upbraid himself. The rough road through which he had journeyed from childhood was marked throughout with trophies of his triumphant spirit. His country regarded him as public property, and waiting with fond impatience the attainment of that pecuniary independence which his erect and honorable nature deemed essential to his character, stood ready with open arms to receive him into her service and crown him with her choicest honors. Fortune was absolutely within his grasp. He was the slave of honor, not the drudge of avarice. It was in-

dependence that he sought, independence for himself and his nestlings. He had tasted the bitter fruits of early poverty and although he had triumphed he would not doom his little ones to their father's struggles and sufferings. He must have attained the object of his pursuit even before he had reached his manhood's prime, and then he could have turned him again without a crime to the pursuits of ambition, again have mounted the solar heights from whence his moral nature had forced his intellectual down. For one short year Mr. Menefee's delicate frame sustained the fiery energies of his mind. In the spring of 1840 in reply to a note from myself on professional business, he alluded to the decline of his health in a tone of sadness, not despondence—his was a soul that never desponded—which struck me as ominous and prophetic. Disease had indeed fastened its fangs upon his body, its force was vain against his mind. With rapidly declining health he persevered in his business till in September in a case of vast magnitude, in which Messrs. Clay and Wickliffe were both employed against him, he put forth for the last time his immortal energies at the bar. Like the Hebrew giant his last effort was the greatest. Oh, would to God that he had been or could have been induced to spare himself! But the occasion had come, and the ruling passion strong in death, broke out with irresistible force to throw its radiance over his funeral pile. Ambition has been called the last infirmity of noble minds. To me it seems to constitute their essence and their strength. I mean not the love of power, but that higher ambition, the love, the yearning after that imperishable fame, which shines through far generations and with an increasing light over the memory of great and glorious talents, greatly and gloriously exerted in the cause of justice and mankind. This appeared to me to be the master passion of Mr. Menefee's soul. He must have been conscious of an extraordinary fate and an extraordinary genius. He must have appeared

to himself as he certainly did to all others, a man marked out from birth for great actions and the most splendid distinction. What had he not achieved? His friends may challenge the history of this country for a parallel. I have said that I had observed him closely in 1836. I have had intimate opportunities since his retirement from Congress. I have conversed with him since his disease was distinctly developed and the qualities which struck me with so much force upon our first acquaintance appeared to gather strength with time. There was an unsparing intensity in his mind, a concentration of the whole soul upon his pursuits, a haste, a rapidity, as though he feared the sun of life should go down ere the goal assigned to his genius had been attained. Was he conscious, (such a suspicion has sometimes flashed across me, and from remembered conversations gathered strength,) could he have been conscious that the seeds of early death were implanted in his original constitution, and was it this which spurred his fiery soul to such gigantic and unpausing strides upon his road to greatness? Himself at all events he did not and he would not spare. This was his only crime; the generous martyr; for this and this alone can his country reproach him. Perchance the opportunity of measuring himself with that great genius, whom he had proposed originally as his standard, struck upon his heroic temperament, and roused the poetry of his nature, as being a meet finale to a life like his. Be that as it may, he dashed at the opportunity as new-fledged eaglets dash into the sun. He did measure himself and, in that effort, pouring forth his genius and his life, reached the consummation of his first wishes, the utmost point of his childhood's prayer. He was measured and found a match for one whose thunders long have shaken the American Senate and who was erst the monarch of the forum. Mr. Menefee sunk gradually from September. His waning life sunk, not his spirit. When apprised at last that his hour had arrived, "Brief summons" was the reply, and he manned

himself to die with dignity. His sense of duty, the energy and collectedness of his nature and his cautious regard for others, were strikingly manifested by the last act of his life. He made his will, executed a mortgage to indemnify a friend who was responsible for him and ere the next sun had risen, his own had set forever.

Thus perished in the thirty-second year of his life, Richard H. Menefee, a man designed by nature and himself, for inevitable greatness. A man of the rarest talents and of the most commanding character. A man whose moral qualities were as faultless, as his intellectual constitution was vigorous and brilliant. A man to whose advancing eminence there was no limit but the Constitution of his country, had not the energies of his mind proved too mighty for the material elements which enclosed them.

"'Twas his own genius gave the final blow,
And helped to plant the wound that laid him low.
So the struck Eagle stretched upon the plain,
No more through rolling clouds to soar again,
Viewed his own feather on the fatal dart,
And winged the shaft that quivered in his heart.
Keen were his pangs, but keener far to feel
He nursed the pinion which impelled the steel.
And the same plumage that had warmed his nest,
Drank the last life-drop from his bleeding breast.'"[1]

Kentucky's first Cecil Rhodes scholar to Oxford University, Mr. Clarke Tandy, in a prize oration entitled, "The Hero as Orator," after calling the roll of the world's greatest orators, said: "Why should we of Kentucky turn to any land beneath the starry heavens for examples of the hero as orator. John C. Breckinridge, John J. Crittenden, Clay, Marshall, and Menefee have bequeathed to us their

[1] Lord Byron's "English Bards and Scotch Reviewers," lines 824-834.

immortal names. Among their speeches may be found specimens of matchless eloquence. In our own proud heroic State was pronounced one of the most exquisite eulogies in all the annals of oratory. We have heard Pericles at the graves of the Peloponnesian heroes; we have heard Mark Antony speaking in Caesar's funeral; we have heard Melancthon delivering the funeral oration over Martin Luther; we have heard Bishop Bossuet at the burial of Louis de Bourbon; we have heard 'Light Horse Harry' Lee bemoaning the Father of our Country, but where, where can a more brilliant eulogy be found than that crystal tear which Thomas Marshall wept for Richard Menefee?"

Menefee's widow and his little four-year-old son, Richard Jouett Menefee, sat on the platform while Marshall was delivering his panegyric. When Marshall referred to Jouett Menefee, he took him in his arms and described his great physical beauty, as given in the eulogy. As he returned him to his mother's arms, he said, "God bless thee, Jouett Menefee." The word "God" is left out of the eulogy through a very obvious typographical error.

The Law Society was so well pleased with Marshall's effort that they appointed a committee of three to communicate with Marshall and obtain his manuscript for publication. The famous orator took a month to answer them, on account of "severe indisposition and the most pressing engagements," but he sent them the manuscript. It was immediately published by the Finnells, printers, in pam-

phlet form, and in this form was preserved until W. L. Barre in "Marshall's Speeches" (1858), incorporated it into his book, prefacing it with the following notice: "In the month of February, 1841, Kentucky was called to mourn the death of Richard H. Menefee; a champion in her legislature, and a star of the first magnitude in the national councils, he stood in the first ranks with those of the list of fame. Though he had not attained his thirty-second year, he already stood upon the apex of an immortal pyramid of his own erection. Of generous impulses, possessing talents of the highest order, and an ardent thirst for that glory he acquired, and having 'died ere he reached his prime,' the universal sorrow of the time was but natural. On the twelfth of the ensuing April, the members of the Law Society of Transylvania University met in the chapel of Morrison College, in Lexington, for the purpose of paying a tribute to their lamented associate. Before a large audience that felt deeply the solemnity of the occasion, Mr. Marshall arose and delivered the following address. The annals of eulogy and panegyric may be sought in vain for a happier piece of composition. Rich in feeling, copious in thought, and glowing with the eloquence of a soul gushing its fervor at the grave of a departed friend, it is a monument to the genius and talents of the dead and of the living—equally imperishable to both."

Kentucky's foremost historian, R. H. Collins, said at the close of his sketch of Menefee: "He was great as a lawyer and greater as a statesman. The eulogy of Thomas F. Mar-

shall upon Menefee's life and services—the tribute of genius to genius, of brilliant but erratic genius to genius still more brilliant and self-poised and commanding—is one of the most graceful and eloquent in the whole field of panegyric literature."

Marshall's eulogy and Frazer's picture were the two greatest Menefee memorials until the State of Kentucky decided to make a more lasting memorial than even these. In 1869 the legislature of Kentucky created a new county and named it for him. On February 24, 1869, Orlando C. Bowles, representative from Pike County, introduced a bill to establish the county of Menefee, out of parts of Montgomery, Bath, Morgan, Powell, and Wolfe Counties. The House passed the bill and on March 8 the Senate did likewise. Two days later Governor John W. Stephenson approved the bill, and one more memorial to the might of Menefee had been created. Commissioners were appointed to locate the county seat, which was to be called Frenchburg, in honor of the man whom Menefee defeated for Congress. Menefee County is the one hundred and thirteenth Kentucky county in the order of formation, and is in the ninth Congressional district. It has recently been brought into the limelight because of the natural gas that has been discovered in its hills. By a mistake the name was incorrectly spelled, Menifee. Some years ago a bill to change the "i" to "e" passed the Kentucky Senate, but through an oversight the House did not act upon it. A statute should be enacted by the next legislature to correct the spelling.

We come now to a most interesting fact. Jouett Menefee, Menefee's son, heard of the creation of this new county, and he thought it would be an appropriate act to present the new county with a picture of his father. He accordingly commissioned his friend, Thomas S. Noble, a native of Kentucky, superintendent of the Cincinnati Art School, to paint the picture from the original one by Oliver Frazer. Mr. Noble has written me that the picture was presented by Jouett Menefee, to the bar of Owingsville, conditionally, and that it was to be removed to the court-house in Menefee County as soon as it was completed. The Bath County bar evidently understood Mr. Menefee differently, as, on July 6, 1872, the bar met and the picture was presented by Capt. B. D. Lacy. Eloquent resolutions were passed upon Menefee's greatness, and thanks to his son for the very excellent copy that Noble had made of Frazer's picture. Whether Noble understood Jouett Menefee correctly, or whether the Owingsville bar understood him correctly, I do not know. At any rate, the picture hangs to-day in the Owingsville court-house, and there is no picture in Frenchburg.

Jouett Menefee presented a portrait of his father to the Lexington court-house, but it was destroyed when the court-house was burned in 1897. I have been unable to ascertain who made this copy of the Frazer picture, but Judge William B. Kinkead began his sketch of Menefee by referring to this copy adversely. The presentation of the picture provoked Judge Kinkead's sketch. It was

based on personal recollections, and extended from the time that Kinkead met Menefee at the Transylvania University Law School, in 1831, until his death. Many parts of it have been used, but the second and last two paragraphs deserve to be given entire.

I have known personally or historically most of the celebrated men of Kentucky, and am impressed with the belief that Richard H. Menefee was the ablest man ever born in the State. He died when only thirty-two years old, having obtained a distinction above that acquired by any other man at so early an age. He possessed more of the elements for great success than any other I have ever known. With intellect quite equal to Mr. Clay's he had a calmness and courage, a self-reliance and perseverance rarely encountered, while he was likewise remarkable for a genial kindness and devotion to his friends. He became at once the idol of the people.

Kinkead then traced his career and closed with the words:

At the age of thirty-two, while the hopes of the country were centered upon him in the full confidence that he would more than supply the great place so long occupied by Mr. Clay, and which must soon be relinquished by him, he passed away. He was mourned by the whole country. Tom Marshall delivered his eulogy. He knew his greatness, for he had felt his power. Every one recognized that there did not remain in the State one man of so much ability.

But how fleeting and evanescent are all the honors bestowed on even the rarest talents. The voice of acclamation and praise which attends one through life, soon becomes stilled and silent, when one ceases to act among men. Unless a great character is associated

with some great event in history, some mighty epoch in the nation, he is forgotten. The names that are imperishable are such as Moses, Julius, Brutus, or Washington—such only are immortal.

In a popular government, where parties rule, new leaders will, for the time, obliterate the remembrance of a greater and an abler, and on the questions which may arise, in a few generations "our children's children will raise new idols—and cavil where their sires adored." In the great convulsions which our country has passed through, such seems now to be the fate of Richard Menefee. The memory of this young man of rare ability, around whom centered such lofty hopes, seems almost to have perished from among his countrymen. Yet there still remain old men who knew him, who bear testimony to his unrivaled talent, and many years hereafter the curious antiquarian will find among long forgotten records, some memorials of the life and early death of one who possessed the greatest ability of any of the sons of Kentucky.

In 1876 there appeared two county histories that recorded Menefee's deeds. One of them, "Historical Sketches of Montgomery County," prepared by Richard Reid, traced Menefee's career, and then closed with this tribute: "Menefee's death cast a gloom over the whole State, and especially was the grief keen and the mourning sincere in Montgomery, where everybody loved him and felt that he was the child of Montgomery, where his rare gifts and powers had first come to the notice of men, and where he had achieved his first triumphs."

Young's History of Bath County traced his career from a local standpoint, and then added: "Thus died in the bloom of youth, a man who, by his transcendent genius and eloquence, had

the eyes of all America turned upon him, as giving promise of being the greatest statesman that she ever produced."

We must turn now to round out the career of Menefee's distinguished son, Richard Jouett Menefee. At the age of fifteen years, Jouett Menefee left school and engaged in the queensware business, in Chicago, in connection with Arthur J. Burley. He sold out his part in the business, after several years, and went to Cincinnati. He again engaged in business, and bought an interest in the Burnet House. He was rapidly amassing a fortune, but he quit business and made an extended tour of the world in company with his mother. They visited the great European art galleries and became acquainted with George Healy and other celebrated painters. He returned to Louisville, and again engaged in business, and retained an interest in it until within two years of his death. The last two years of his life were spent in a vain search for health. He died in Louisville, June 12, 1893, and was buried in Cave Hill Cemetery. He left a widow and five children who are still living. At the time of his death he was the ablest art critic living in Kentucky, and was compiling a biography of his famous grandfather, Matthew H. Jouett. He was an elder in the Presbyterian Church, and one of the trustees of Center College of Danville, Kentucky.

On August 18, 1893, a memorial service was held in the Menefee Memorial Church, in Owingsville, out of respect to Jouett Menefee. This church had been erected by Menefee's assistance because he loved the religion of

Jesus Christ, and also to perpetuate his father's name more effectually in the place of his birth. The pastor of the church, Rev. R. A. Walton, presented a brief biographical sketch of Jouett Menefee. J. H. Herron, editor of the *Owingsville Opinion,* read a sketch of Matthew H. Jouett, and then a young Owingsville lawyer arose and delivered a eulogy that, to me, is more exquisite than even Marshall's "crystal tear."

This young man was William Goodpastor Ramsey, son of Judge John A. Ramsey, and was born in Owingsville, December 30, 1870. He attended the common schools of the town, and at the age of twelve years received a certificate to teach school. He was further prepared for college at the public schools of San Antonio, Texas; Thomasville, Georgia, and Denver, Colorado, where he was with his mother, who was seeking restoration of health. He then attended the University of Virginia two years, and then at the University of Michigan for the same length of time. He graduated in law at Michigan and then took a post-graduate law course. In 1896, he was the elector for the ninth congressional district, and "stumped" every county in the district, which was composed of thirteen counties. The following year he was elected as judge of Bath County, and died suddenly, at his home in Owingsville, with apoplexy, October 21, 1898. Judge Ramsey is the only man that Kentucky has produced that is, in any respect, comparable to Menefee; young and eloquent, pure and noble, he followed in the footsteps of the magnificent Menefee. The facts of his

eulogy are based on Marshall's, and are of course incorrect at many points.

RAMSEY'S SPEECH ON RICHARD MENEFEE

Ladies and Gentlemen:

In this beautiful temple, this monument to mortal man, we meet in solemn conclave. Unlike the multitude and Mark Antony around the great Cæsar, we come to praise the magnificent Menefee, not to bury him.

In recorded history we seldom find a village that has produced a renowned soldier, a noted sculptor, and an orator upon whose lips the goddess of eloquence seemed to have nestled.

Yet, within almost a stone's throw of this assembly, Joel T. Hart lived, John B. Hood and Richard Menefee moved and had their being; but the greatest of these was the patriot lawyer, orator and statesman.

One bright December morning in eighteen hundred and nine, the subject of this memorial first saw the saffron tints of a cold uncongenial world, but the Christian mother who yielded this helpless babe in her morning orison prayed to the ever-merciful God to make her son a man among men, and then it was written in the records of destiny that an intellectual giant was born of woman, that a brilliant star was trembling upon the horizon, which would rise to its place in the zenith and there shine in undimmed glory until the world should be no more, and time had passed into eternity.

At the tender age of four, Providence in its infinite wisdom made this child an orphan, but the helpless stage of infancy was but for a season; for at the age of twelve, he was the staff, the support and the hero of his widowed mother.

Soon began that arduous struggle for undying fame, and although the earliest part of life's tem-

pestuous journey was beset with trials, temptations and vicissitudes galore, yet he rose superior to every occasion, and forced the destinies to crown him with a fadeless laurel and register his name in letters of gold, in that great temple on that never changing scroll of immortals. And ten decades hence, when truth has a hearing, the muse of history will choose Daniels of Virginia, Cochran of New York, Grady of Georgia, Ingersoll of Brooklyn; then dipping her pen in the sunlight, she will write in the clear blue above them, the name of that bright consummate flower of earlier orators—Richard Menefee. Educated in the common schools of Bath and Montgomery, later on an honor man of Transylvania University, then he began the study of law, was admitted to the bar ere he had attained his majority, and from his entrance was the counsellor and advocate in the most important and abstruse cases of the day—Oh, what a favorite of fortune!

By an admiring constituency, he was called to the halls of the Kentucky legislature, at the age of twenty-seven, and there it was he met in the arena of debate the master minds of our grand Commonwealth, and as a logical and convincing speaker his name will be handed to generations not yet born, along with Clay's and Webster's; but he was not to remain there long, for the people, recognizing transcendent talents and incomparable worth both as a citizen and as a statesman, elected him to a seat in the Federal Congress, two years later; then his reputation burst beyond the confines of his native State, and it was heralded and flashed across our country that the brightest young Solon that had yet appeared in the political firmament was electrifying his auditors with the brilliancy of his rhetorical flowers and the cogency of his invincible logic.

Orator, patriot, statesman, lawyer, beautifully blended in one, is a theme worthy to be couched in

words of noble eloquence commemorated in most enduring marble and transmitted to our children and our children's children, in poetry and in song—yea, it is an infinite subject in finite hands.

With bated breath and attentive ear have I listened to the aged sires of our community relate in exquisite admiration the charms of this man's oratorical powers, and in my childish fancy I could imagine him in his flights of eloquence soaring like a mountain eagle or a condor of the Andes, to the illimitable space, there to "bathe its plumage in the thunder's home," and the elysian hues of an iridescent rainbow.

One of the greatest legal battles ever fought in a temple of justice was between Richard Menefee and that immortal commoner Henry Clay and the great Wickliffe. Standing in the forum, in the grandeur of his young manhood with these great men as his uncompromising opponents, I can see him as Virgil was wont to describe Mezentius surrounded by his enemies, he "like a solid rock by seas inclosed, to raging winds and the roaring waves exposed." From this proud summit looking down he disdains their empty menace and triumphant remains. Although he was the votary of no particular creed, yet he communed constantly with nature; and the breathing fragrance of Spring, the soft voluptuousness of Summer, the golden pomp of Autumn, and the sheeted earth of Winter, told him that there was a God, who ruled the mutations of the seasons and the destinies of man, and in Him he placed implicit trust and sublime confidence, and his Maker raised him to the grandest of human heights.

But the dread disease, consumption, which ever fixes its relentless fangs upon the good, immaculate and brilliant, claimed his pure breast as its unwelcome home; and when he was told by weeping, sympathetic and sorrowing friends that his unsullied soul would soon wing its flight from these terrestrial troubles to its celestial abode, he remarked, "Brief summons," and folding his arms he manned himself to die with dig-

nity, for he had so lived that when that "summons" came to "join the innumerable caravan that moves to the pale realms of shade, where each should take his chamber in the silent hall of death, he went not like the quarry slave at night, scourged to his dungeon; but sustained and soothed by an unfaltering trust, he approached his grave like one who wraps the drapery of his couch about him and lies down to pleasant dreams."

He left a devoted wife and sorrowing son to mourn his untimely end, and in that son's veins courses the blood of two noted and illustrious families; for the mother of Richard H. Menefee's boy was the daughter of the great artist, grand connoisseur, Jouett, who had the skill of a Michael Angelo, and the touch of a Reynolds. Thus perished ere he had reached the thirty-third milestone on life's journey—a man of transcendent genius, a man who has immortalized himself by his eloquence; a man of immeasurable worth, and one whose mental qualities were as faultless as his intellectual constitution was vigorous and brilliant. And to the memory of the magnificent Menefee, whose life from his twenty-first year was a series of signal successes, I say, "Good-night," and may we all meet him in that beautiful land, around the white throne of Jehovah where the angels always sing and the light of heaven shines eternal.

Richard H. Menefee had asked that his body should never be removed from the old Allen grave-yard, near Lexington. In pursuance of this wish his body was permitted to sleep for over half a century in a place that one of our own poets has called "God's Acre." But after the death of Jouett Menefee, his father's body, with the bodies of Menefee's two children and his father-in-law, Matthew H. Jouett, were disinterred and brought to Louisville, and on Saturday, October 28, 1893, were buried in Cave

Hill Cemetery. To-day a magnificent monument stands to tell Kentuckians that this is hallowed ground, for it contains the ashes of one of her greatest sons. He is buried near Dr. A. H. Redford, D. D. (1818-1884), the historian of Kentucky Methodism, the biographer of Kavanaugh. Across the driveway, and over a little knoll, one comes to the red granite monument to Gen. George Rogers Clark, the distinguished conqueror of the Northwest.

Many stories have been told about Menefee, but the best and most authentic one seems to be the Phil Lee story that Vice-President Adlai E. Stevenson, a native son of Kentucky, who is never so happy as when telling about old times and great men in the Blue Grass Commonwealth, has preserved. Stevenson told it some years ago to a correspondent of the Kansas City *Times,* and it is as follows: Col. Phil Lee, who was for many years Commonwealth's Attorney of Jefferson County, Kentucky, told Stevenson the story of how he was once compared to Menefee. He had made his first great speech to a jury. As he came out of the courthouse, an old man took his hand and said, "Lord, Phil, you just reminded me exactly of Dick Menefee." Lee was immensely tickled and invited the old fellow to take a drink. "Yes, Phil, I could just see Dick Menefee." Another drink. "When you come around like that and riz your hand like this, I could see Dick Menefee." Another drink. "There's only a few points of difference 'twixt you and Dick Menefee, Phil." Another drink, and then Lee ventured to inquire about the points

of difference. "Well, Phil, it did seem to me that you kinder lacked Dick Menefee's idees!"

In 1900 the new Lexington court-house was opened and the county of Fayette had oil paintings made to hang on the walls of the court-room. Miss Mary Kinkead, a painter of Lexington, was commissioned to copy Oliver Frazer's portrait of Menefee to occupy a place on the walls. Col. W. C. P. Breckinridge, the famous Kentucky orator and journalist, wrote the following criticism of this copy: "Cut off in the prime of life, Menefee yet left to his State the heritage of a brilliant and honorable career. In this face, unusual as it is, at first glance far from handsome, there can be seen something of the poetic quality of the man who was, above all things, a lovable gentleman; and greater familiarity with the picture will soon breed a warm affection. Frazer gave to the figure the sloping shoulders which were the fashion of the day, and which, to some extent, mar also his otherwise remarkable picture of young Henry Clay, killed at Buena Vista." What will probably be the best picture of Richard H. Menefee will be a copy of the Frazer picture that one of Menefee's grandsons, Mr. Speed S. Menefee, upon whom the mantle of Jouett has fallen, will paint for the Kentucky Hall of Fame, which will be in the new Kentucky Capitol. Mr. Menefee is going to paint a full-length portrait, using Frazer's picture for the bust, and then make a study of Menefee's height, which will result, no doubt, in a remarkably fine portrait of the great Kentucky orator.

The following sonnet, published in a Cincin-

nati paper, is only signed with the initials. At the time of its publication, Jouett Menefee wrote to the editors, asking for the poet's full name, but he received a reply stating that the author signed only the initials—R. R.

"SONNET TO MENEFEE.

"A parent's gift from Heaven, O! orphan child,
Ennobled thee above the kings of earth!
For truth and genius waited at thy birth,
And on thy toilsome youth a glory smile,
Illumining the work through years up-piled;
Self-raised, thou didst ascend to heights whose dearth
Of occupance bespeaks heroic worth—
Orator, patriot, statesman undefiled.
While at thy side was one whose loveliness—
Kentucky's artist's daughter, wife of thine—
Was wreathing round thy fame to cheer and bless.
Alas! thy life at high ambition's shrine
Was sacrificed—a harp-string broken in stress
Of rendering some melody divine."

—R. R.

CHAPTER XI

MENEFEE, THE MAN.

Richard Hickman Menefee's personal appearance was described by his widow to Edward S. Jouett, the author of the sketch of Menefee in "Lawyers and Lawmakers of Kentucky," substantially as follows: He was just six feet in height, of slight build, yet erect, muscular and graceful. His eyes were dark blue, bluer than the eyes of General Forrest. His lashes were heavy and his hair light brown and was getting darker as he grew older. His lips were rather full, but he had a beautiful mouth, and his teeth were perfect. His blond complexion Menefee inherited from his mother; his height and rather muscular, although slender, form, was his inheritance from his father. Menefee and John Keats have sometimes been looked at and pitied, as men of genius but physical weaklings. This is an incorrect judgment. While Keats was subject to lung trouble and was in ill health for many years, Menefee was ill for only a year, and up to that time he was as strong as he desired to be.

Richard Menefee is the most lovable character in Kentucky history. Col. W. C. P. Breckinridge called him "a lovable gentleman." He had a sunny, playful disposition. When the day's work was done he would go home and romp for hours on the floor with his children. Then he would study until midnight. "In all his life he seemed to be driven by some unseen

force to work, work, work; he seemed to be saying to himself, 'the night cometh when no man can work.' Menefee knew men, and was rarely ever deceived in any one. He was not quick to judge men, but when he did pronounce judgment there was no appeal. He was a patriot, a lover of his kind, and had he lived, I verily believe he would never have become a corrupt politician as we have them today." Another gift of Menefee's, an essential to political success, was his ability as a story-teller. Kentucky has produced no better after-dinner speaker than he.

His Diary reveals many of his characteristics, a few of which may be tabulated here. He was both retrospective and introspective, though not morbid. He was also an optimist, regarding his ill-health as a blessing in disguise, since it gave him an opportunity to study history, which would have been denied him had he been well and attending to his practice. He defined history as being not a knowledge of mere facts and dates, but a knowledge obtained of the causes, effects, consequences and dependencies; in this he attained to the modern definition. On historical subjects he was thinking far in advance of his time, and had he lived he might have written a history that would have added new lustre to his name. He was especially fond of constitutional history.

Menefee was a very modest man. With all the honors that Kentucky and the nation had heaped upon him, he remained the same. He was so very modest that for fear some one would accuse him of egotism, he would not

write an autobiography. If he had written one, it is safe to say it would have been the great Kentucky autobiography, and one that people of his State would not have willingly let die. It would have been as charming to a Kentuckian, at any rate, as "Franklin's Autobiography." To-day when obscure men bring themselves before the public eye by the aid of their "own story," and when a man of Menefee's fame refuses to write a history of his life, we may see this trait of his character emphasized.

Richard H. Menefee was a moral man. Tradition has it that he never drank when wine was served at his own table, except upon one occasion, then he took a few sips of champagne with a party of friends whom he was entertaining. No historian can say of Menefee, as one has said, too truly, of Marshall, that if his morality had been equal to his intellect he would have been indeed a great man. No matter to what heights he may attain, no man is a really great man who is not moral as well. Morality is greater than intellect.

He was known throughout Kentucky, and especially on his native heath, as "Dick" Menefee, just as Thomas F. Marshall and Abraham Lincoln were known as "Tom" and "Abe," and as to-day our strenuous President is called "Teddy." But then, we of America have little regard for dignified greatness. The man who would lead the American people must be one of the people.

Menefee was ambitious. He admits that he had lived too much in the future. I have no doubt that he had his eye fixed upon the high-

est office within the gift of the people—the Presidency itself. He did not take Shakespeare's advice to throw ambition away, although he may have realized by that sin fell the angels. He was ambitious to be a great lawyer and a distinguished statesman, but it is as an orator that he holds his place in Kentucky history. His oratory was not the proverbial flower-laden style that has been characteristic of Southern orators. He spoke right on—as a plain blunt man, and in his simplicity there was great eloquence. Although he realized that painting and sculpture were more lasting than oratory, he also realized that it was God's great gift to him, and he made the most of that gift. As one of the three great Kentucky orators, younger than Marshall or Clay by many years, Menefee has received from all of the Kentucky historians one of their fairest pages. Henry Clay unhesitatingly pronounced him the greatest genius that Kentucky ever produced. Only one other man in Kentucky history rivals him for his place with Marshall and Clay, John Hayes (1793-1836), an erratic, often intoxicated lawyer, who lived in Bardstown, Kentucky. He was murdered while in an intoxicated condition, and to-day mention of his name only awakens sympathy. Menefee could be as sarcastic as the late Senator from Kansas, John J. Ingalls. Unlike Ingalls, he "tempered his sarcasm with genial humor which cured the wound which he had inflicted."

While he was not a communicant of any church, Richard H. Menefee believed that Jesus of Nazareth was the Christ, the Son of the

living God. A few months before his death he was unsettled in his religious convictions, but as the end drew near he became absolutely certain that, though a man die, he will live again. He belonged to the church which has been described as "the church without the church." While Menefee's biographer cannot call him "a great Christian" as Lord Salisbury called Gladstone, yet there is great truth in the statement that a man of considerable prominence wrote to Menefee's widow: "I consider Menefee not only the greatest man that Kentucky ever produced, but the best." The fact remains, however, that he did not unite with the visible church.

I desire to conclude this biography of Richard Hickman Menefee with the final words of Thomas Carlyle's life of his friend and brother man of letters, John Sterling, who had many characteristics in common with Menefee. While I have not known Menefee in the flesh as Carlyle knew Sterling, I believe that I know this Kentuckian of Kentuckians. "Nay, what of men or of the world? Here, visible to myself, for some while, was a brilliant human presence, distinguished, honorable and lovable amid the din of common population; among the million little beautiful, once moved a beautiful human soul; whom I, among others, recognized and lovingly walked with, while the years and hours were. Sitting now by his tomb in thoughtful mood, the times bring a new duty for me. Why write the Life of Menefee? I imagine I had a commission higher than the world's, the dictate of Nature herself, to do what is now done. *Sic prosit.*"

INDEX

Adair, John, 16.
Adams, John Q., 133, 184.
Allen, Jas. Lane, 57.
Allen, Jas. W., 43, 44.
Allen, Wm., 270, 275.
Andrews, J. W., 43, 44.
Arnold, Dr. Thos., 24.

Barbour, Gov. Jas., 238.
Barre, W. L., 302.
Bashaw, J. W., 43, 44.
Bell, John, 85, 132.
Bell, J. F., 53.
Birney, Jas. G., 242, 253.
Blackie, Wm., 15.
Bledsoe, A. T., 15.
Boon, Ratliffe, 193.
Boone, Jamina, 17.
Bourne, Walker, 23, 24, 25.
Boyle, Capt. John, 11.
Boyle, Justice John, 66.
Breckenridge, John C., 252.
Breckinridge, W. C. P., 314.
Breathitt, Gov. John, 49.
Bright, John M., 278.
Brooks, Jas. A., 32.
Brown, John, 33.
Bryant, Edwin, 54, 246.
Buckner, R. A., 267.
Bullitt, A. S., 18.
Bullitt, W. N., 43, 44.
Bullock, W. C., 43, 44.
Bullock, W. F., 67.
Bush, Pleasant, 64.

Calhoun, John, 80.
Carlyle, Thos., 320.
Carson, Kit, 15.
Chambers, John, 80, 232.
Chapman, G. T., 30, 33.
Cheatham, E. B., 64.
Chopin, 15.
Clay, C. M., 54, 241, 268.
Clay, Henry, 16, 40, 66, 80, 112, 232, 250, 319.
Clay, Henry, Jr., 237.
Clark, Gen. G. W., 313.
Clark, Gov. Jas., 55, 59, 62, 237.
Clements, L. V., 251.
Collins, Lewis, 232, 275.
Collins, R. H., 302.
Combs, Gen. Leslie, 54, 58, 241.
Crittenden, J. J., 80, 234, 266.
Cushman, Samuel, 208.
Cumbreling, C. C., 195, 204, 215.

Daniel, Henry, 61, 73.
Darwin, Charles, 15.
Davenport, S. T., 20.
Davis, Garrett, 55.
Davis, Josiah, 37.
Dawson, Wm. C., 212.
Dixon, Archibald, 61, 235.
Donaldson, Col. John, 20.
Dudley, Dr. B. W., 269.

Edwards, Ninian, 15.
Everett, Edward, 106.

Faneuil Hall, 75, 106.
Fillmore, Millard, 133, 214.
Fiske, John, 17.
Fitz Gerald, Edward, 15.
Forrest, Gen. N. B., 216.
Fox, Fountain, 61.
Frazer, Oliver, 232, 271.
French, Richard, 74, 80, 184.

Gaines, E. P., 57.
Gill, Harrison, 32.
Gladstone, Wm. E., 15, 320.
Granger, Francis, 55, 68.
Grant, U. S., 17.
Graves-Cilley duel, 140.
Green, Judge John, 53, 54.
Grimes, Owen, 78.
Guerrant, Dr. H. S., 87, 88.
Guthrie, Jas., 61, 65.

Hall, Rev. N. H., 48, 275.
Hanson, Samuel, 61.
Hardin, Ben, 40, 61, 267.
Harlan, Jas., 80, 212.
Harrison, A. G., 26.
Harrison, Gen. W. H., 55, 238, 253.
Hart, Joel T., 271.

Hawes, Richard, 80, 232.
Hays, John, 319.
Helm, Gov. John L., 60.
Henry, Patrick, 28.
Heron, David, 53.
Hickman, Richard, 17, 18, 19.
Hill, Dr. Preston, 26.
Holley, Horace, 30, 32, 33.
Holmes, O. W., 15.
Hood, Gen. John B., 13.
Houghton, Lord, 15.
Howe, Rev. Jos. F., 16, 23.
Hunt, Charlton, 55.
Hunter, R. M. T., 15, 82.
Huston, Gen. J. B., 253.

Ingalls, John J., 319.
Irving, Washington, 15.

Jackson, Pres. Andrew, 57.
Jameison, John, 26.
Johnson, Geo. W., 37, 43, 246.
Johnson, Madison C., 68, 82, 249.
Johnson, Richard N., 250, 269.
Jouett, Matthew H., 275.
Jouett, Mrs. M. H., 232, 270.
Jouett, Miss S. B. (Mrs. Menefee), 37, 48, 112.

Keats, John, 216.
Keiser, Col. John, 72.
Kelley, R. F., 64.
Kinkead, Wm. B., 15, 37, 42, 304.

LaFayette, Count, 48.
Lane, Gov. H. S., 25, 26.
Lanier, Sidney, 24.
Lansdowne, Col. Geo., 22, 31, 50.
Letcher, Gov. R. P., 54, 60, 235, 248.
Lincoln, Abraham, 13, 15, 318.
Litchfield Law School, 40.
Logan, Capt. Benj., 11.
Lonsdale, Mary, 13, 21, 50.

Madison, Pres. Jas., 15.
Marshall, Thos. A., 269.
Marshall, Thos. F., 15, 19, 61, 274, 318.
Matthews, T. J., 30, 33.
Mayes, Daniel, 41, 42.
Mendelssohn, 15.
Menefee, Alfred, 14, 34.
Menefee, Richard, 12, 16, 19, 20, 22.
Menefee, Richard Hickman, address to Fayette Whigs, 247.
ambition, 20.
anti-dueling law, speech on, 152.
banqueted, 73.
bar-keeper, 28.
birth, 11.
body removed, 312.
brothers, 14.
campaigning, 56.
campaign stories, 76, 78.
candidate for Congress, 74.
Caroline, speech, 114.
cast last votes, 253.
Captain, 58.
children, 52, 80, 241.
classmates, 25, 26.
Commonwealth's Atty., 40.
Congressional committeeman, 86.
Congress, adjourns, 231.
contested election, a, 132.
contract, a, 49.
country's condition, speech on, 148.
death, 270.
defeated for U. S. Senate, 268.
denounces Duncan, 217.
Diary, 255.
Documents, speech on, 205.
drafts education bill, 67.
elected Representative, 58.
equalizing act, author of, 64.
Fourth Instalment, speech on, 88.
Frazier's picture, 271.
funeral, 275.
given name, 17.
graduation bill, the, 213.
great record, 72.
Hall of Fame, 85.
Havre de Grace, address, 196.
Hopkinsville speech, 243.
"Kentucky," 196.
last session of Congress, 204.
last will of, 269.
lawyer, 233.
leading legislator, 61.
leaves home, 27.

Menefee, Richard Hickman,
leaves Transylvania, 36.
Lee's story, 313.
letters, 31, 34, 45, 50, 86.
Main Boundary speech, 223.
marriage, 47.
Marshall's eulogy, 279.
meets Marshall, 240.
member Whig Committee, 234.
Menefee County, 303.
Mexican speech, 128.
neutrality bill speech, 133.
newspaper article, a, 190.
obituaries, 207.
preparatory education, 23.
Presidential elector, 236.
proviso, a, 111.
quotes Justice Marshall, 193.
resolutions, 147, 194, 211, 214.
Rodgers's Will case, 249.
school teacher, 29, 37.
scores Van Buren, 239.
Swartwood defalcations, 210, 215.
Telegraph resolution, 192.
Transylvania University, 30, 43.
Treasury Note-bill speech, 184.
Washington residence, 112.
Menefee, Richard Jouett, 80, 307.
Menifee, Jas. Jarrett, Jos., Wm., 11.
Menifie, Geo., 11.
McDowell, Ephraim, 15, 85.
McKee, Jas., 53.
McKee, Col. Wm. R., 232.
McNary, W. C., 64.
Meriwether, David, 64.
Metcalf, Gov. Thos., 61, 238, 267.
Mitchell, O. M., 15.
Mitchell, Martha, 48.
Morehead, Gov. Jas. T., 53, 268.

Nichols, Geo., 40.

Osceola, Geo., 57.
Owings, Thos. D., 12, 21.
Owsley, Gov. Wm., 235, 267.

Peck, L. C., 152.
Peterkin, David, 194.
Phillipe, King Louis, 21.
"Piper, The Wandering," 71.
Pindell, Richard, 45, 248.
Poe, E. A., 15.
Polk, Jas. K., 85, 208.
Powell, Gov. L. W., 53.
Prentiss, S. S., 82, 132, 196, 206, 217.

Rafinesque, C. S., 30.
Ramsey, Wm. G., 308.
Redford, Rev. A. H., 313.
Rhett, R. B., 184.
Richmond, R. F., 43, 44.
Robertson, Justice Geo., 52,
Robinson, Gov. Jas. F., 250.
Roosevelt, Theodore, 318.
Rumsey, Edwards, 80.

Shaler, N. S., 370.
Shelby, Isaac, 18.
Smith, "Raccoon" John, 75.
Smith, L. B., 43, 44.
Southgate, W. W., 61, 133, 184.
Steele, Wm. J., 15, 44.
Sterling, John, 320.
Stockton, E. and R., 21, 39.

Tennyson, Alfred, 15.
Thompson, M. V., 236, 248.
Thompson, J. B., 54, 235.
Tibbotts, J. W., 216.
Todd, R. S., 236.
Transylvania University, 30, 40.
Trimble, Judge Jas., 39.
Tyler, John., 254.

Underwood, Jos. R., 80, 268.

Van Buren, Martin, 81, 242.
Visscher, Wm. L., 13.

Walker, C. J., 267.
Webster, Daniel, 75, 196.
Wickliffe, Gov. C. A., 237, 267.
Wickliffe, R. N., Jr., 73, 239.
Williams, Gen. S. L., 53, 268.
Wise, H. A., 196, 204, 212.
Woodson, Tucker, 64, 267.
Wooley, Judge A. K., 249.

Young, Aquila, 58.
Young, Jas., 19.

LIBRARY OF CONGRESS
0 011 838 676 0